

# **LAWS AND REGULATIONS RELATING TO THE PRACTICE OF CHIROPRACTIC**



**STATE OF CALIFORNIA**

**BOARD OF CHIROPRACTIC EXAMINERS**

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## **Article 1. General Provisions**

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### **§301. Tenses, Gender and Number.**

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

#### **HISTORY**

1. For prior history of sections 300 and 301, see Registers 88, No. 23 and 76, No. 50 (Register 90, No. 21)

### **§302. Practice of Chiropractic.**

#### **(a) Scope of Practice.**

(1) A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof a chiropractor may manipulate the muscle and connective tissue related thereto.

(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.

(3) Other than as explicitly set forth in section 10(b) of the Act, a duly licensed chiropractor may treat any condition, disease, or injury in any patient, including a pregnant woman, and may diagnose, so long as such treatment or diagnosis is done in a manner consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section.

(4) A chiropractic license issued in the State of California does not authorize the holder thereof:

(A) to practice surgery or to sever or penetrate tissues of human beings, including, but not limited to severing the umbilical cord;

(B) to deliver a human child or practice obstetrics;

(C) to practice dentistry;

(D) to practice optometry;

(E) to use any drug or medicine included in materia medica;

(F) to use a lithotripter;

(G) to use ultrasound on a fetus for either diagnostic or treatment purposes; or

(H) to perform a mammography.

(5) A duly licensed chiropractor may employ the use of vitamins, food supplements, foods for special dietary use, or proprietary medicines, if the above substances are also included in section 4057 of the Business and Professions Code, so long as such substances are not included in materia medica as defined in section 13 of the Business and Professions Code.

The use of such substances by a licensed chiropractor in the treatment of illness or injury must be within the scope of the practice of chiropractic as defined in section 7 of the Act.

(6) Except as specifically provided in section 302(a)(4), a duly licensed chiropractor may make use of X-ray and thermography equipment for the purposes of diagnosis but not for the purposes of treatment. A duly licensed chiropractor may make use of diagnostic ultrasound equipment for the purposes of neuromuscular skeletal diagnosis.

(7) A duly licensed chiropractor may only practice or attempt to practice or hold himself or herself out as practicing a system of chiropractic. A duly licensed chiropractor may also advertise the use of the modalities authorized by this section as a part of a course of chiropractic treatment, but is not required to use all of the diagnostic and treatment modalities set forth in this section. A chiropractor may not hold himself or herself out as being licensed as anything other than a chiropractor or as holding any other healing arts license or as practicing physical therapy or use the term “physical therapy” in advertising unless he or she holds another such license.

(b) Definitions.

(1) Board. The term “board” means the State Board of Chiropractic Examiners.

(2) Act. The term “act” means the Chiropractic Initiative Act of California as amended.

Note: The Chiropractic Initiative Act of California is listed in West's Annotated California Codes following section 1000 of the Business and Professions Code, and in Deering's California Codes Annotated as an appendix to the Business and Professions Code.

(3) Duly licensed chiropractor. The term “duly licensed chiropractor” means any chiropractor in the State of California holding an unrevoked certificate to practice chiropractic, as that term is defined in section 7 of the Act, that has been issued by the board.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), Business and Professions Code. Reference: Sections 1000-5 and 1000-7, Business and Professions Code.

HISTORY:

1. Renumbering of subsection (b) to subsection (c) filed 7-7-78; effective thirtieth day thereafter (Register 78, No. 27). For prior history, see Register 65, No. 24.

2. Redesignation of section 318 as subsection 302(b) filed 7-7-78; effective thirtieth day thereafter (Register 78, No. 27).

3. Repealer and new section filed 8-4-87; operative 9-3-87 (Register 87, No. 32).

4. Change without regulatory effect of subsection (b)(2) (Register 88, No. 23).

5. Amendment of subsection (a) filed 4-4-91 as an emergency; operative 4-4-91 (Register 91, No. 17). A Certificate of Compliance must be transmitted to OAL by 8-3-91 or emergency language will be repealed by operation of law on the following day.

6. Amendment of subsection (a) with amendments refiled 6-3-91 as an emergency; operative 6-3-91 (Register 91, No. 34). A Certificate of Compliance must be transmitted to OAL by 10-1-91 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 6-3-91 order transmitted to OAL 9-27-91 and filed 10-23-91 (Register 92, No. 24).

8. Change without regulatory effect amending subsection (a)(5) filed 1-12-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 2).

### **§303. Filing of Addresses.**

Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Section 1000-10(a), Business and Professions Code.

#### **HISTORY:**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No.2).
2. Amendment filed 7-30-87; operative 8-29-87 (Register 87, No. 32)

### **§304. Discipline by Another State.**

The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

#### **HISTORY:**

1. New section filed 2-5-80; effective thirtieth day thereafter (Register 80, No. 5). For prior history, see Register 76, No. 50.
2. Repealer of section heading and section and new section heading and section filed 4-6-2000; operative 5-6-2000 (Register 2000, No. 14).

### **§305. Procedure in Disciplinary Proceedings.**

All proceedings relating to the refusal to grant, suspension or revocation of a license to practice chiropractic, or for the reissuance or reinstatement of a license which has been suspended or revoked, or for the disciplining of licensees in any manner other than by a Chiropractic Quality Review Panel, shall be conducted in accordance with the provisions of Section 11500 et seq. of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.



NOTE: Authority cited: Sections 1000-4(b), 1000-4(e) and 1000-10(b), Business and Professions Code (Chiropractic Initiative Act). Reference: Section 1000-4(h), Business and Professions Code.

HISTORY: 1. Amendment of section and new Note filed 5-13-93; operative 6-14-93 (Register 93, No. 20).

### **§306. Delegation of Certain Functions.**

The power and discretion of the board to receive and file accusations; issue notices of hearing, statements to respondent, statements of issues, subpoenas, and subpoenas duces tecum; receive and file notices of defense; set and calendar cases for hearing; certify and deliver or mail copies of decisions; and perform other functions necessary to expedite the business of the board in connection with the conduct of the proceedings mentioned in Section 305 hereof in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, are hereby delegated to the Executive Director.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Section 1000-3, Business and Professions Code.

HISTORY:

1. Amendment filed 12-6-65; effective thirtieth day thereafter (Register 65, No. 24).
2. Amendment filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§306.1. Chiropractic Quality Review Panel (CQRP).**

The board shall establish a Chiropractic Quality Review Panel (CQRP) by county throughout California to hear cases referred by the board's executive director.

(a) The authority and duties of CQRP's are:

- (1) To review chiropractic care provided by California licensees.
- (2) To act on all matters assigned to it by the board's executive director.
- (3) To inspect all chiropractic records where reasonable cause exists to initiate a quality review.

(b) The composition and purpose of CQRP's are as follows:

- (1) Each panel shall be composed of three licensees appointed by the board.
- (2) Each panel member shall have at least 5 years experience practicing chiropractic in California.
- (3) Each panel member shall have no disciplinary action against their license.

(4) The purpose of the CQRP is to review specific complaints and where appropriate to provide recommendations of continuing education and to strengthen aspects of the licensee's chiropractic practice.

(A) The “continuing education” recommendations are limited to specific continuing education seminars required by licensees.

(B) “Recommendations to strengthen aspects of a licensee's practice” will be a panel recommendation consistent with chiropractic standards of care in California.

(c) CQRP Hearing Procedures are as follows:

(1) A closed panel hearing shall be conducted with a court reporter.

(2) Any licensee required to appear before a panel will be notified by certified mail with a summary of the specific complaint together with supporting documents at least 30 days prior to the scheduled panel hearing.

(3) When requested by the panel, licensees shall present to the panel all patient treatment records relevant to the specific complaint as required by California Code of Regulations, Title 16, Section 318.

(4) The failure to present all requested patient records authorizes the panel to presume that the information in the records is adverse to the licensee.

(5) The licensee may bring in any witnesses and documents to assist in responding to the complaint.

(6) The licensee may have counsel present during the panel hearing.

(7) The licensee will be given an adequate opportunity to respond to any questions by the panel.

(8) A postponement of the scheduled panel hearing may be granted by the board's executive director upon a showing of good cause made at least 10 days prior to the scheduled hearing.

(9) The failure of a licensee to appear, without good cause, constitutes grounds for a recommendation to the executive director for filing of a disciplinary action, or further investigation.

(d) CQRP report procedures:

(1) At the conclusion of the CQRP hearing the panel shall prepare a written report based on the evidence presented at the panel hearing with specific recommendations regarding the licensee and/or the licensee's practice.

Panel recommendations are the following:

- (A) Continuing education seminars in related field;
- (B) Recommendations that would strengthen aspects of licensee's chiropractic practice;
- (C) Further investigation;
- (D) Refer case to Office of Attorney General for preparation of formal disciplinary action;
- (E) Close case with warning;
- (F) Close case without warning;
- (G) Dismiss complaint.

(2) The report and recommendations shall go directly to the board's executive director.

(3) Any departure from accepted chiropractic procedures or practices shall be outlined in this written panel report with the recommendations from subsection (d)(1)(A)-(G) deemed necessary by a vote of a majority of the three member panel.

(4) All panel recommendations are subject to approval by the board's executive director without further input from the licensee. The executive director shall prepare a final report, which shall include all approved recommendations, and send a copy of the final report to the licensee and panel members.

(5) The evidence presented at the panel hearing shall be submitted to the board office. All evidence used by the panel is admissible in any subsequent disciplinary proceeding against a licensee.

(e) The procedures for appealing the final CQRP report are as follows:

(1) The panel report is reviewed by the board's executive director. After the review, the final report is sent to the licensee. The licensee has 30 days from receipt of the report to file a written appeal with the board.

(2) The appeal shall be considered by a committee of the board consisting of no more than three members.

(3) If the committee grants the appeal a final decision shall be prepared and returned to the executive director for distribution to the licensee and panel members.

(4) If the board's committee denies the appeal, the final report becomes a final decision after 30 days.

(5) The licensee may appeal the final decision by filing a writ of mandate pursuant to California Code of Civil Procedure, Section 1094.5. The writ of mandate shall be filed in a Superior Court in Los Angeles, San Francisco, or Sacramento counties.

### **§306.2. Persons Not Employees Hired Under Contract with the Board.**

If a person, not a regular employee of the board, is hired or is under contract to provide expertise or to perform investigations for the Board of Chiropractic Examiners in the evaluation of the conduct of a licensee or administration of a board examination, and such person is named as a defendant in a civil action directly resulting from opinions rendered, statements made, investigations conducted or testimony given, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against that person. The Attorney General shall be utilized in those civil actions.

NOTE: Authority cited: Sections 1000-4(b), 1000-4(e) and 1000-10(a), Business and Professions Code (Chiropractic Initiative Act). Reference: Sections 1000-4(h) and 154.5, Business and Professions Code.

#### **HISTORY:**

1. New section filed 5-13-93; operative 6-14-93 (Register 93, No. 20).
2. Amendment of section heading and section filed 9-23-2002; operative 10-23-2002 (Register 2002, No. 39).

### **§306.3. Investigators; Authority to Inspect Premises.**

The board or its designee may inspect the physical premises of any chiropractic office during regular business hours.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b), 1000-4(e) and 1000-4(h), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

#### **HISTORY:**

1. New section filed 10-2-2002; operative 11-1-2002 (Register 2002, No. 40).

### **§307. Refund of Fees.**

The board is not authorized or permitted by law to return any portion of the license application fee of a qualified applicant.

#### **HISTORY**

1. Amendment filed 12-6-65; effective thirtieth day thereafter (Register 65, No. 24).

### **§308. Display of License.**

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-5 and 1000-7, Business and Professions Code.

**HISTORY:**

1. New section filed 2-26-51 as an emergency; effective upon filing (Register 23, No. 4).
2. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2).
3. Amendment filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9).
4. Amendment filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).
5. Amendment filed 7-30-87; operative 8-29-87 (Register 87, No. 32).
6. Amendment of section and Note filed 10-8-2002; operative 11-7-2002 (Register 2002, No. 41).

**§309. Posting of Notice of Revocation or Suspension.**

NOTE: Authority cited: Section 4(b), Chiropractic Initiative Act of California.

**HISTORY:**

1. New section filed 7-7-78; effective thirtieth day thereafter (Register 78, No. 27).
2. Repealer filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

## **Article 2. Practice of Chiropractic**

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**§310. Change of Name .**

Any licensee who shall change his name according to the law, shall, within 10 days of such change, reregister his name with the Executive Director of the board by submitting to the board office a written statement of the change and evidence of legal documentation.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Sections 1000-7 and 1000-10(b), Business and Professions Code.

**HISTORY:**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2).
2. Repealer and new section filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

**§310.1. Replacement License.**

Any licensee shall be entitled to a replacement license if his original license is lost, stolen or mangled, or upon written request and legal documentation of name change. Each request for a replacement license must be accompanied by a nonrefundable fee of \$25.00, and signed written statement as to the circumstances of loss of said license, or the return to the board office of the mangled license.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Sections 1000-7 and 1000-10(b), Business and Professions Code.

**HISTORY:**

1. Renumbering and amendment of former Section 310.1 to Section 310.2 and new Section 310.1 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For history of former Section 310.1, see Register 78, No. 50.

### **§310.2. Use of Title by Unlicensed Persons.**

No person shall engage in the practice of chiropractic, as defined in Section 302, without holding a license which is in an active status, issued by the Board.

Any person who advertises or promotes, in any manner, the words “doctor” or “chiropractor”, the letters, prefixes or suffixes “Dr.” or “D.C.”, or any other word, title or letters indicating or implying that he or she is engaged in the practice of chiropractic, or who represents or holds himself or herself out as a doctor of chiropractic without having, at the time of so doing, a valid, unrevoked, or unsurrendered license, is in violation of the Chiropractic Initiative Act.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code Reference: Section 1000-15, Business and Professions Code

#### **HISTORY:**

1. Renumbering and amendment of former Section 310.1 to Section 310.2 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For history of former Section 310.1, see Register 78, No. 50.

2. Editorial correction of Note (Register 2000, No. 2).

3. Amendment of section heading and section filed 7-20-2001; operative 8-19-2001 (Register 2001, No. 29).

### **§311. Advertisements.**

Constructive educational publicity is encouraged, but the use by any licensee of advertising which contains misstatements, falsehoods, misrepresentations, distorted, sensational or fabulous statements, or which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, constitutes grounds for the imposition of any of the following disciplinary penalties:

(a) Suspension of said licensee's right to practice in this State for a period not exceeding one (1) year.

(b) Placing said licensee upon probation.

(c) Taking such other action, excepting the revocation of said licensee's license, in relation to disciplining said licensee as the board in its discretion may deem proper.

### **§312. Illegal Practice.**

Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. An “unlicensed individual” is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic license. An exemption is hereby created for student doctors participating in board approved preceptorship programs.

The permitted activities of unlicensed individuals are as follows:

(a) Unlicensed individuals may take the history of a patient. However, this activity is separate from the consultation which at all times must be conducted by the licensed doctor.

(b) Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations, except they may not perform such examinations which require diagnostic or analytic interpretations nor may they render a conclusion either verbally or in writing regarding the patient's physical condition. As an example, unlicensed individuals may not perform evaluations of heart or lung soundings. Such individuals shall be at all times under the immediate and direct supervision of a licensed Doctor of Chiropractic.

“Immediate and direct supervision” means the licensed Doctor of Chiropractic shall be at all times on the premises where the examinations are being conducted. The licensed Doctor of Chiropractic shall be responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.

(c) Unlicensed individuals may administer physical therapy treatments as an adjunct to chiropractic adjustment, provided the physical therapy treatment is conducted under the adequate supervision of a licensed Doctor of Chiropractic.

Adequate supervision shall include all of the following:

(1) The doctor shall be present in the same chiropractic facility with the unlicensed individual at least fifty percent of any work week or portion thereof the said individual is on duty unless this requirement has been waived by the board. The doctor shall be readily available to the said individual at all other times for advice, assistance and instruction.

(2) The doctor shall initially examine and prepare a written treatment program for a patient prior to the providing of physical therapy treatment by the unlicensed individual.

(3) The doctor shall provide periodic reevaluation of the treatment program and of the individual's performance in relation to the patient. “Periodic reevaluation” shall mean at least once every thirty days the patient is under active care.

(4) The doctor shall perform and record an evaluation of the patient and his or her response to treatment at the termination thereof.

(d) Unlicensed individuals may mark X-ray films administered by a Doctor of Chiropractic. “Marking X-rays” is defined as drawing and measuring between reference points and making angular and linear measurements. Unlicensed individuals are not permitted to make any diagnostic conclusions or chiropractic analytical listings, and the licensed doctor is responsible for any pathological entities covered or obstructed by the markings.

(e) Unlicensed individuals may not administer X-rays unless they hold a valid X-ray technician certificate from the Department of Health Services, or participate under the direct supervision of a licensed Doctor of Chiropractic in a training program approved by that department and set forth in Section 25668.1 of the California Health and Safety Code. This

prohibition, set forth in Section 30403 of Title 17 of the California Administrative Code includes the following activities:

- (1) Positioning of patient;
- (2) Setting up of X-ray machines;
- (3) Pushing a button;

(4) Developing of films. The Department of Health Services has determined that unlicensed individuals may develop X-ray film if that is their sole radiologic responsibility.

Unlicensed individuals who exceed the permitted scope of practice set forth in this regulation shall be in violation of Section 15 of the Chiropractic Act and shall be prohibited from applying for a California chiropractic license for such time as may be determined by the board. Student doctors participating in board approved preceptorship programs are not to be considered “unlicensed individuals” when working in said program.

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 15 of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii) and Section 25668.1, California Health and Safety Code; Section 30403 of Title 17, California Administrative Code.

**HISTORY:**

- 1. Repealer and new section filed 7-16-79; effective thirtieth day thereafter (Register 79, No. 29).
- 2. Amendment filed 2-1-80; effective thirtieth day thereafter (Register 80, No. 5).

**§312.1. Ownership of a Chiropractic Practice.**

No unlicensed individual may own a chiropractic practice regardless of the form in which the practice is established (individual ownership, partnership, corporation, etc.). This does not preclude a layperson from owning the facilities in which the practice is conducted, and the equipment provided. It does prohibit a layperson from being in a position of making and/or influencing decisions relating to diagnosis, or treatment of patients which are matters requiring chiropractic licensure.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-7, 1000-10 and 1000-15, Business and Professions Code.

**HISTORY:**

- 1. New section filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

**§312.2. Ownership of Practice upon the Death or Incapacity of a Licensee.**

In the event of the death of a chiropractic licensee, or the legal declaration of the mental incompetency of the licensee to practice, the unlicensed heirs or trustees of the chiropractor must dispose of the practice within six (6) months. At all times during that period the practice must be supervised by a licensed chiropractor. The board will consider a petition to extend this period if



it is submitted within four (4) months after the death or the declaration of incompetence of the licensee, including identification of any extenuating circumstances that will prevent compliance.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-7, 1000-10 and 1000-15, Business and Professions Code.

### **§313. Inducing Student to Practice Chiropractic.**

No licensee of chiropractic in the State of California shall offer or cause to be offered to a student or prospective student of chiropractic any promise or inducement, either written or verbal, which may induce said student or prospective student to believe he or she, during the freshman, sophomore, junior or senior years, or within the time that he or she shall be a student in, and/or before graduation from chiropractic school or college, and/or before receiving a license from the board, may be legally employed in any chiropractic private office, or chiropractic school or college, to practice chiropractic, with or without compensation, and no student shall accept or rely upon any such promise or understanding except that junior or senior students only may, for professional instruction, be assigned to regular clinic practice, during regular clinic hours, in the clinic conducted upon the premises of a regularly incorporated chiropractic school or college, and then only when said clinic is in charge of a duly licensed chiropractor as clinic instructor. This section does not apply to students and doctors who participate in preceptorship programs sponsored by chiropractic institutions holding status with the Council on Chiropractic Education or seeking such status. Violation of this rule by any student shall be deemed to be also a violation of Section 312 hereof.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-10(b) and 1000-15, Business and Professions Code.

#### **HISTORY:**

1. Amendment filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).
2. Amendment filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§314. Law Violators.**

It shall be the duty of every licensee to notify the secretary or any member of the board, of any violation of the act, or of these rules and regulations, in order that the board may take appropriate disciplinary action.

### **§315. Mental Illness.**

(a) Administrative Adjudication. The proceedings under this regulation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) Psychiatric Examinations. When reasonable cause exists that a person holding a license under this Act is mentally ill to the extent that it may affect his ability to conduct with safety to the public the practice authorized by such license, the board may order the license holder to be examined by one or more physicians specializing in psychiatry designated by the board. The report of such persons shall be made available to the license holder and may be received as direct evidence in a proceeding conducted pursuant to subsection (c) of this regulation.

(c) Probation, Suspension, etc., in Event of Mental Illness; Reinstatement. If a license holder has been found to be mentally ill by one or more physicians specializing in psychiatry designated by the board, the results of which indicates that such illness does effect his ability to conduct, with safety, the practice authorized by his license, the board may take action, in accordance with subdivision (a) of this regulation, by any one of the following methods:

(1) Placing him on probation.

(2) Suspending his right to practice for a period not exceeding one year.

(3) Revoking his license.

(4) Taking such other action in relation to his license as the board in its discretion deems proper.

The board shall not restore such license to good standing until it shall receive competent evidence, from one or more physicians specializing in psychiatry, designated by the board, of the absence or control of the condition which caused its action and until it is satisfied that with due regard to the public interest the licensee's right to practice may be safely reinstated.

Before reinstating such a person, the board may require the person to pass an oral or written examination, or both, to determine his present fitness to resume his practice.

(d) Conditions of Reinstatement. In setting aside action taken under subsection (c) of this regulation, the board may impose terms and conditions to be followed by the license holder after his license has been reinstated. The authority of the board to impose terms and conditions includes, but is not limited to, the following:

(1) Requiring the license holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board.

(2) Requiring the license holder to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires the certificate holder to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the license holder's choice.

(3) Setting any other requirement the board in its discretion deems proper.

**HISTORY:**

1. Amendment filed 8-19-77; effective thirtieth day thereafter (Register 77, No. 34).

**§316. Responsibility for Conduct on Premises.**

(a) Every licensee is responsible for the conduct of employees or other persons subject to his supervision in his place of practice, and shall insure that all such conduct in his place of practice conforms to the law and to the regulations herein.

(b) Where a chiropractic license is used in connection with any premises, structure or facility, no sexual acts or erotic behavior involving patients, patrons or customers, including, but not necessarily limited to, sexual stimulation, masturbation or prostitution, shall be permitted on said premises, structure or facility.

(c) The commission of any act of sexual abuse, sexual misconduct, or sexual relations by a licensee with a patient, client, customer or employee is unprofessional conduct and cause for disciplinary action. This conduct is substantially related to the qualifications, functions, or duties of a chiropractic license.

This section shall not apply to sexual contact between a licensed chiropractor and his or her spouse or person in an equivalent domestic relationship when that chiropractor provides professional treatment.

NOTE: Authority cited: Sections 1000-4, 1000-10 and 1057, Business and Professions Code. Reference: Sections 726 and 1000-10, Business and Professions Code.

**HISTORY:**

1. New section filed 7-13-71; effective thirtieth day thereafter (Register 71, No. 29).
2. New subsection (c) and amendment of Note filed 7-26-96; operative 8-25-96 (Register 96, No. 30).

**§317. Unprofessional Conduct.**

The board shall take action against any holder of a license who is guilty of unprofessional conduct which has been brought to its attention, or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

- (a) Gross negligence;
- (b) Repeated negligent acts;
- (c) Incompetence;
- (d) The administration of treatment or the use of diagnostic procedures which are clearly excessive as determined by the customary practice and standards of the local community of licensees;
- (e) Any conduct which has endangered or is likely to endanger the health, welfare, or safety of the public;
- (f) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license;

(g) Conviction of a crime which is substantially related to the qualifications, functions or duties of a chiropractor;

(h) Conviction of any offense, whether felony or misdemeanor, involving moral turpitude, dishonesty, physical violence or corruption. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction was of an offense involving moral turpitude, dishonesty, physical violence or corruption. A plea or verdict of guilty, or a plea of nolo contendere is deemed to be a conviction within the meaning of the board's disciplinary provisions. The board may order a license to be suspended or revoked, or may decline to issue a license upon the entering of a conviction or judgement in a criminal matter.

(i) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(j) The violation of any of the provisions of law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances;

(k) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a license holder, or otherwise;

(l) Knowingly making or signing any certificate or other document relating to the practice of chiropractic which falsely represents the existence or nonexistence of a state of facts;

(m) Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate any provision or term of the Act or the regulations adopted by the board thereunder;

(n) Making or giving any false statement or information in connection with the application for issuance of a license;

(o) Impersonating an applicant or acting as a proxy for an applicant in any examination required by the board for the issuance of a license or certificate;

(p) The use of advertising relating to chiropractic which violates section 17500 of the Business and Professions Code;

(q) The participation in any act of fraud or misrepresentation;

(r) Except as may be required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment;

(s) The employment or use of persons known as cappers or steerers to obtain business;

(t) The offering, delivering, receiving or accepting of any rebate, refund, commission, preference, patronage, dividend, discount or other consideration as compensation or inducement for referring patients to any person;

(u) Participation in information or referral bureaus which do not comply with section 317.1 of the regulations;

(v) Entering into an agreement to waive, abrogate, or rebate the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligation for payment thereunder, when used as an advertising and/or marketing procedure, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in each such instance.

In all insurance billings where a waiver of a deductible or a co-payment is intended as an advertising and/or marketing procedure, the chiropractor's statement and insurance billing shall contain the following statement:

I/WE WAIVE CO-PAYMENT AND/OR DEDUCTIBLES. IT IS MY/OUR INTENTION TO DO THE FOLLOWING: (Indicate one choice below)

( ) BILL THE PATIENT \$\_\_\_\_\_ AFTER RECEIPT FROM YOU OF \$\_\_\_\_\_ .

( ) WAIVE ANY FURTHER PAYMENT FROM THE PATIENT AFTER RECEIPT FROM YOU OF \$\_\_\_\_\_ .

( ) IN CASES WHERE PREDETERMINATION OF INSURANCE BENEFITS IS NOT POSSIBLE, I/WE PROVIDE THE FOLLOWING WRITTEN EXPLANATION OF MY/OUR BILLING INTENTIONS: \_\_\_\_\_  
\_\_\_\_\_

(w) Not referring a patient to a physician and surgeon or other licensed health care provider who can provide the appropriate management of a patient's physical or mental condition, disease or injury within his or her scope of practice, if in the course of a diagnostic evaluation a chiropractor detects an abnormality that indicates that the patient has a physical or mental condition, disease, or injury that is not subject to appropriate management by chiropractic methods and techniques. This subsection shall not apply where the patient states that he or she is already under the care of such other physician and surgeon or other licensed health care provider who is providing the appropriate management for that physical or mental condition, disease, or injury within his or her scope of practice.

(x) The offer, advertisement, or substitution of a spinal manipulation for vaccination.

(y) [Reserved]

(z) The treatment for infectious disease, defined as a disease caused by pathogenic microorganisms in the body. This subsection shall not be interpreted to prohibit the treatment of neuromusculoskeletal or other conditions, diseases or injuries within the scope of practice of a chiropractor in any patient with an infectious disease.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-

4(b), and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

### **§317.1. Chiropractic Referral Services.**

Chiropractic referral services shall conform to the following:

(1) A referral bureau shall be made up of at least five doctors, each of whom does not have fiduciary relationship one to the other, with one participating office representing no more than 20 percent of the bureau's available practitioners. The board will consider any extenuating circumstances which will prevent a service from complying with these requirements;

(2) An application shall be filed with the board office which has been approved by the board, and properly identifies the service, structure and members;

(a) A nonrefundable application fee of \$25.00 shall be submitted with the referral service application.

(3) A telephone number shall be for a separate answering service;

(4) The answering service of the bureau shall refer the caller to the next doctor on the list on a rotating basis. The following are exceptions:

(a) A request for a specialist;

(b) Geographic considerations;

(c) Request for services in a language other than English.

(5) Records on each referral shall be kept and include the following:

(a) Date of referral;

(b) Name and address of patient;

(c) Name and address of doctor referred to.

(6) When a 24-hour emergency referral service is offered, a member of the group shall be available.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Section 651, Business and Professions Code.

#### **HISTORY:**

1. New section filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§317.5. Investigation and Enforcement Costs; Payment by Licentiate.**

(a) In any order in resolution of a disciplinary proceeding before the Board of Chiropractic Examiners, the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the Chiropractic Initiative Act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the board bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

(e) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f)(1) Except as provided in paragraph (2), the board shall not renew or reinstate any license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(g) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs.

(h) Nothing in this section shall preclude the board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

#### **HISTORY:**

1. New section filed 7-29-96; operative 8-28-96 (Register 96, No. 31).

### **§318. Chiropractic Patient Records/Accountable Billings.**

(a) Chiropractic Patient Records. Each licensed chiropractor is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

- (1) Patient's full name, date of birth, and social security number (if available);
- (2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;
- (3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;
- (4) Signature of patient;
- (5) Date of each and every patient visit;
- (6) All chiropractic X-rays, or evidence of the transfer of said X-rays.

(b) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

NOTE: Authority cited: Section 4(b), Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).



### **§319. Free or Discount Services.**

Licensees may advertise that they will perform certain designated routine professional services free or at a discount if such advertising claims are truthful. However, no charge shall be made for any other professional services rendered or commodities provided to a patient during any office visit in which free or discounted services are offered or provided unless, prior to the accrual of any charges, the patient shall have been informed of the cost of such additional services and/or commodities and shall have agreed to pay for them.

For the purposes of this section, no separate charge shall be made for the professional evaluation of diagnostic tests or procedures which are provided free or without cost, or at a discount, whether such professional evaluation is made at the time of the initial office visit or at any later time.

NOTE: Authority cited: Section 4(b), Chiropractic Initiative Act of California.

## **Article 3. Application for License to Practice Chiropractic**

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### **§320. Temporary Permits or Licenses.**

The California law does not provide for the granting of temporary permits or licenses.

### **§321. Application for License.**

An Application for a License to Practice Chiropractic shall be submitted on an application form (No. 09A-1 (Rev. 9/92)) prescribed and provided by the board, and titled Application for License to Practice Chiropractic, accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento, with the required nonrefundable application fee of one hundred dollars (\$100.00).

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(c), Business and Professions Code.

Reference: Section 1000-5, Business and Professions Code.

#### **HISTORY:**

1. Amendment filed 5-26-88; operative 6-25-88 (Register 88, No. 23).
2. Change without regulatory effect amending section filed 11-17-92 pursuant to title 1, section 100, California Code of Regulations (Register 92, No. 47).

### **§322. Age of Applicant.**

No applicant under the age of twenty-one (21) years of age shall be admitted to examination before the board for licensure to practice chiropractic in California.

### **§323. Reciprocity. Interpretation of Section 9 of the Act.**

The board makes the following interpretation of Section 9 of the Act which states candidates for licensure are considered to have fulfilled the requirement of reciprocity if they provide the documentation required by the board showing the following:

(a) Graduation from a board approved chiropractic college, and completion of the minimum number of hours and subjects as were required by California law at the time the applicant's license was issued.

(b) Equivalent successful examination in each of the subjects examined in California in the same year as the applicant was issued a license in the state from which he is applying.

(c) They must hold a valid and up-to-date license from the state from which they are reciprocating.

(d) The state from which they are licensed will reciprocate with California.

(e) The board reserves the right to require any additional education or examination for reciprocity.

(f) A nonrefundable application fee of \$25.00.

(g) A fee, as set forth in Section 5 of the Act, if licensure is granted.

(h) Five (5) years of chiropractic practice.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Section 1000-9, Business and Professions Code.

#### **HISTORY:**

1. New section filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2). For prior history, see Register 76, No. 50.

2. Amendment filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).

3. Amendment of subsections (a) and (b) filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

4. New subsection (h) filed 7-25-96; operative 8-24-96 (Register 96, No. 30).

### **§325. Denial of License Application; Issuance of Probationary License.**

The board may refuse a license to any applicant for any of the grounds enumerated in Business and Professions Code Section 480. The board may, in its sole discretion, issue a probationary license to any such applicant who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(a) Medical, psychiatric, or psychological evaluation.

(b) Continuing medical, psychiatric, or psychological treatment.

- (c) Restriction of practice.
- (d) Continuing participation in a board-approved rehabilitation program.
- (e) Abstention from the use of alcohol or drugs.
- (f) Random blood and or urine testing for alcohol or drugs.
- (g) Compliance with all laws and regulations.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

**HISTORY:**

1. New section filed 11-2-99; operative 12-2-99 (Register 99, No. 45).

#### **Article 4. Approved Schools and Qualifications of Applicants**

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#### **§330. Application for Approval.**

An application for approval on a form provided by the Board, shall be filed with the Board at its principal office in Sacramento and addressed to the Secretary of the State Board of Chiropractic Examiners. Such application shall be on file at least six months prior to any inspection.

NOTE: Authority cited for Article 4 (Sections 330-331.16): Sections 4(b) and 4(f), Chiropractic Initiative Act (Stats. 1923, p. lxxxviii). Reference: Sections 4(b) and 4(f), Chiropractic Initiative Act.

**HISTORY:**

1. Repealer of Article 4 (Sections 330-331.17) and new Article 4 (Sections 330-331.16) filed 12-10-76; effective thirtieth day thereafter (Register 76, No. 50). For prior history of Article 4, see Register 55, No. 16, and Register 65, No. 24.

#### **§331.1. Approval and Eligibility.**

(a) A school which initially meets the requirements of these rules shall be first provisionally approved. No school will be finally approved until a provisional program has been in operation for at least two years.

(b) No school shall be provisionally approved until it shall present competent evidence of its organizational and financial ability to attain the minimum educational requirements set forth by these rules and institutional goals set forth in its application.

(c) No school shall be provisionally approved unless there is a reasonable need for such school in the geographical area in which it is proposed to locate.

(d) No school shall be provisionally approved until competent evidence of compliance with the requirements of Section 29023(a)(2) of the Education Code is filed with the Board.

### **§331.2. Inspection and Survey.**

(a) No school shall be approved, provisionally or finally, until it has been inspected by the Board or its duly authorized representative, including but not limited to the Council on Chiropractic Education, and is found to be in compliance with the rules herein set forth.

(b) Each school shall permit to the Board or its authorized representatives unhampered opportunity to inspect the school's facilities, interview its entire faculty and management, examine student, teaching, grading, performance and graduation records, and inspect and audit, for cause, at the school's expense, the financial and corporate records.

### **§331.3. Supervision.**

(a) Every approved school shall be under the supervision of a full-time president, dean, or other executive officer who shall carry out the objective and program of the school. Said officer shall have a minimum of two years experience in school administration prior to his appointment, or its equivalent in training.

(b) The president, dean, or other executive officer shall render a report annually, covering topics such as student enrollment, number and changes in faculty and administration, changes in the curriculum, courses given, and the projections for future policy. Said annual report shall be filed with the Board within one month following the end of the academic year.

(c) It shall be the duty of the president, dean, or other executive officer to obtain from each faculty member, prior to the beginning of the semester or school year, an outline and time schedule for each subject of the course. He shall approve such outlines and determine from time to time if they are being observed. A copy of this outline and a schedule of classes, showing the day and hour of presentation and the instructor shall be filed with the Board within three (3) weeks after the beginning of the term.

(d) The dean shall maintain a record of the teaching load of each member of the staff in terms of classes taught, supervision, student counseling, committee work, and other assigned activities.

(e) A permanent file of all class schedules, beginning with those as of the date of the school's approval shall be maintained by the dean. These shall be available for inspection and comparison with the courses described in the relative catalogs.

(f) Schedules must be kept up to date and posted on a bulletin board available for student inspection.

### **§331.4. Financial Management.**

The college shall keep accurate financial records and shall file an annual financial report including a profit and loss statement as well as an asset and liability statement prepared and

signed by a qualified accountant. Said financial report shall be filed with the Board within three (3) months following the end of the school's fiscal year.

#### **§331.5. Records.**

There shall be maintained a good system of records, showing conveniently and in detail, the attendance, discipline, grades and accounts of the students, by means of which an exact knowledge can be obtained regarding each students work. A personal file must be maintained for each student containing his admission credentials, photographs and other identifying personal items. Fireproof storage must be provided for the safekeeping of records.

#### **§331.6. Catalog.**

The school shall issue, at least biennially, a catalog setting forth the character of the work which it offers, and said catalog shall be filed with the Board. The content and format shall follow the usual pattern of professional school catalogs, and shall contain the following information:

(a) A list of its trustees, president, dean and other administrative officers and members of the faculty with their respective qualifications;

(b) Courses set forth by department, showing for each subject its content, value in term, semester hours, or credit hours;

(c) Entrance requirements, conditions for academic standing and discipline, such as attendance, examinations, grades, promotion and graduation;

(d) Matriculation, tuition, laboratory, graduation and special fees, and estimated costs of books, instruments, dormitory and board; and

(e) Descriptions of the library, audio-visual facilities, laboratories and clinic facilities setting forth at least the minimum requirement hereinafter set forth in rules.

(f) No school will be accepted or retained in good standing which publishes in its catalog or otherwise, any misrepresentation regarding its curriculum, faculty or facilities for instruction.

#### **§331.7. Calendar.**

Each school may elect to use the semester, trimester or four-quarter term system.

A school calendar shall designate the beginning and ending dates of terms or semesters, the vacation periods and legal holidays observed, and the dates for semester and final examinations. The recitation or lecture period shall be not less than 50 minutes in length. The school may operate on a five or six-day week or any combination thereof, but the total number of hours of instruction shall be not less than 30 hours nor more than 35 hours per week. The total number of hours provided for each complete student's course, leading to the degree of Doctor of Chiropractic, shall be not less than 4,400 hours distributed over four academic years of nine months each.

### **§331.8. Faculty.**

All faculty members shall meet the standards of the Council on Chiropractic Education.

#### **HISTORY:**

1. Repealer and new section filed 8-18-77; effective thirtieth day thereafter (Register 77, No. 34).

### **§331.9. Student Faculty Ratio.**

(a) The full-time equivalent student-faculty ratio shall be at least one full-time professor to every fifteen (15) students enrolled in the school.

(b) A full-time professor is one who devotes a minimum of 38 hours per week to his academic duties.

(c) The maximum enrollment for any class in laboratory or clinical work shall be limited to the number which may, by Board standards, sufficiently be trained with the equipment and facilities available in such laboratory clinic.

(d) All classes and laboratory sessions, including clinics, shall be conducted under the presence and supervision of a full-time professor.

(e) There shall be one instructor for each twenty-five (25) students in the laboratory and/or clinic courses.

### **§331.10. Faculty Organization.**

(a) A faculty shall be organized by departments. Regularly scheduled meetings of the full faculty shall be had to provide a free exchange of ideas concerning:

- (1) The content and scope of the curriculum;
- (2) The teaching methods and facilities;
- (3) Student discipline, welfare and awards;
- (4) Faculty discipline and welfare;
- (5) Committee reports and recommendations;
- (6) Recommendations for the promotion and graduation of students;
- (7) Administration and educational policies; and
- (8) Recommendations to the administrative officers and to the trustees.

(b) The dean shall appoint the following standing committees of which he shall be a member ex officio: admissions and credentials, curriculum, clinic, laboratories, library and examinations, grades and records.

### **§331.11. Scholastic Regulations.**

(a) Admission.

(1) Each school shall have a committee on admissions and credentials. The admission of students shall be in the hands of a responsible officer who is a member of the committee and his decision shall be subject to the approval of the committee.

(2) No applicant shall be admitted to any school until he has been personally interviewed for the purpose of determining his character, scholastic aptitude, mental and physical fitness to study and practice. When a great geographic distance precludes personal interview, the same information, supported by affidavits and photographs, may be substituted for the personal interview.

(3) Documentary evidence of preliminary education must be obtained and kept on file. All transcripts of other schools must be obtained directly from such schools.

(4) It is strongly recommended by the Board that an entrance examination compiled and administered by recognized testing agencies (e.g., A.C.T., S.A.T.) be required of all students prior to matriculation in order to prove their ability to do college level work.

(b) Date of Matriculation. No student shall be matriculated at a later date than one week immediately following the advertised date of the commencement of the school term.

(c) Qualifications of Students. No student shall be matriculated in an approved school unless he is of good moral character and is without major physical deficiencies, except as provided in Section 8.1 of the Act.

(d) Professional Education. Students shall not be matriculated in any school approved by the board unless they possess, and submit to the school upon their application for matriculation, either:

(1) A diploma from a standard high school or other institution of standard secondary school grade evidencing completion by the student of a four (4) year course, or

(2) A certificate from the board stating that the student has submitted proof, satisfactory to the board, of education equivalent in training power to a high school course. The certificate shall bear a date prior to the applicant's matriculation date in any school approved by the board.

(3) A student who seeks admission in any school approved by the Board after November 3, 1976, shall be subject to the following: The candidate must have completed, with a satisfactory scholastic record, at least 60 semester hours or an equivalent number of quarter hours in prechiropractic subjects at a college listed in the U.S. Office of Education "Education Directory--

Higher Education.” The specific prechiropractic subjects and their requirements shall be in accordance with the standards adopted by the Council on Chiropractic Education.

(e) Advanced Standing.

(1) Applicants for admission to advanced standing shall be required to furnish evidence to the school:

(A) That they can meet the same entrance requirements as candidates for the first year class;

(B) That courses equivalent in content and quality to those given in the admitting school in the year or years preceding that to which admission is desired have been satisfactorily completed;

(C) That the work was done in a chiropractic college acceptable to the committee on admissions of the college; and

(D) That the candidate has a letter of recommendation from the dean of the school from which transfer is made.

(2) Credits for work done in colleges of liberal arts and sciences will be allowed based on the regulations of the Council on Chiropractic Education.

(3) Credits for basic science subjects on the professional level shall be in accordance with the provisions of the regulations of the Council on Chiropractic Education.

(4) A student desiring to re-enter the college after a lapse in attendance of one or more years shall fulfill the entrance requirements applying to the class which he seeks to enter. Students whose education was interrupted by service in the armed forces are exempt from this requirement.

(5) For all such students admitted to advance standing there will be, therefore, on file with the registrar the same documents as required for admission to the first-year class and in addition a certified transcript of work completed, together with a letter of honorary dismissal from the college from which transfer was made.

(6) No candidate for a degree shall be accepted for less than one full academic year of resident study.

(f) Attendance. In order to obtain credit for a course, a student shall have been present in class at least 90 percent of the time and shall have received a passing letter grade. When the absence exceeds 10 percent, the student shall be automatically dropped from the class. If the absences have been due to illness or other excusable reasons and if evidence of these reasons can be submitted, the student may apply for readmission through the dean's office and may be given credit for attendance upon the recommendation of his instructor and completion of course requirements.

Students shall be required to spend the last academic year of the course in residence in the college which confers the degree.



(g) Promotion.

(1) Promotion from one school term to another should be by recommendation of the instructors and consent of the committee on credentials or other similar committee. The decision should be based upon careful evaluation of the student's attendance, application, conduct and grades in quizzes and examinations. In other words, the final standing of the student in each subject shall be based upon the composite judgment of the responsible instructors in that department, and not solely upon the result of written examinations.

(2) A student failing in any subject in a school term should be required to repeat the subject.

(h) Requirements for Graduation. The requirements for admission to the school shall have been fulfilled and the candidate, in addition to scholastic qualitative requirements, shall have completed a minimum quantitative requirement of 4,400 hours of instruction in four academic years of nine months each. The last year shall have been spent in the school granting the degree. The candidate shall have complied with all the regulations of the school and be recommended for the degree by the faculty.

(i) Special (Graduate of An Approved Chiropractic School) or Unclassified Subject. Persons so registered may not be a candidate for a degree. If they desire to become candidates, they shall satisfy the usual requirements for admission as well as the degree requirement. No work done under this classification will be accepted for credit beyond 90 days from the date of matriculation. Holders of a valid chiropractic degree are exempt from this requirement.

(j) Degree. The degree conferred for completion of professional undergraduate work shall be Doctor of Chiropractic (D.C.).

NOTE: Authority cited: Section 4(b), Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii). Reference: Sections 4(b) and 5, Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii).

HISTORY:

1. New subsection (d)(3) filed 8-19-77; effective thirtieth day thereafter (Register 77, No. 34).
2. Amendment of subsection (e)(3) filed 6-20-78; effective thirtieth day thereafter (Register 78, No. 25).
3. Amendment of subsection (e)(2) filed 12-12-78; effective thirtieth day thereafter (Register 78, No. 50).
4. Amendment of subsection (d) filed 9-6-79; effective thirtieth day thereafter (Register 79, No. 36).
5. Amendment of subsection (d)(3) filed 2-5-80; effective thirtieth day thereafter (Register 80, No. 5).

**§331.12.1. Curriculum.**

All applicants for the Board Examination who matriculated into a chiropractic college prior to the passage of Proposition 15 (November 3, 1976) shall fulfill the requirements of this section.

(a) Course of Study. The school shall have established curriculum which indicates objectives, content and methods of instruction for each subject offered.

(b) Required Hours and Subjects. The school shall offer, and shall require for graduation, a course of not less than 4,000 academic hours extended over a period of four school terms of not less than nine months each. Such course shall include the minimum educational requirements set forth in Section 5 of the Act. The minimum number of hours required in the basic subjects shall be as follows:

Anatomy including embryology (minimum of 480 hours), histology (minimum of 160 hours), and dissection (minimum of 160 hours)	800 hours
Physiology	320 hours
Biochemistry, inorganic and organic chemistry	320 hours
Pathology (minimum of 280 hours), bacteriology (minimum of 160 hours), and toxicology (minimum of 40 hours)	480 hours
Public health, hygiene and sanitation, and first aid	120 hours
Diagnosis (minimum of 480 hours), pediatrics (minimum of 40 hours), psychiatry (minimum of 40 hours), dermatology, syphilology and serology (minimum of 40 hours), and X-ray (minimum of 120 hours)	720 hours
Obstetrics and gynecology	120 hours
Principles and practice of chiropractic (minimum of 960 hours), physiotherapy (minimum of 120 hours), and dietetics (minimum of 40 hours)	1,120 hours

(c) Subject Presentation. Laboratory teaching with actual student participation must be included in anatomy, dissection, histology, chemistry, physiology, bacteriology, pathology.

The classes shall be presented in a proper sequence so that the normal shall be presented first before the abnormal is to be considered (i.e., the student must learn anatomy, chemistry and physiology before he is taught pathology and diagnosis). The subject presentation should be of a nature and depth comparable to that found at State colleges in equivalent courses.

**ANATOMY:** Includes gross anatomy, dissection, embryology, and histology with particular emphasis on neurology.

**PHYSIOLOGY:** To include the physiology of blood and lymph, circulation, respiration, excretion, digestion, metabolism, endocrines, special senses and nervous system.

**CHEMISTRY:** To include inorganic and organic chemistry, physical chemistry, the chemistry of foods, digestion and metabolism.

**PATHOLOGY AND BACTERIOLOGY:** Pathology to include general and special pathology. Bacteriology to include parasitology and serology.

**PUBLIC HEALTH AND HYGIENE AND SANITATION:** To include sanitary and hygienic procedures, First Aid, prevention of disease and Public Health Department regulations.

**DIAGNOSIS:** To include physical, clinical, laboratory and differential diagnosis; pediatrics, geriatrics, dermatology, syphilology, psychology, psychiatry and roentgenology (technique and interpretation).

**OBSTETRICS AND GYNECOLOGY:** To include the standard routine diagnostic procedures, and clinical and laboratory examinations.

**PRINCIPLES AND PRACTICE OF CHIROPRACTIC, DIETETICS, PHYSIOTHERAPY, AND OFFICE PROCEDURE:** To include history and principles of chiropractic, spinal analysis, adjustive techniques and orthopedics.

**NUTRITION:** To include dietetics and clinical nutrition, including primary and secondary nutritional deficiencies.

**PHYSIOTHERAPY:** To include the theory, principles and use of the standard recognized physiotherapy equipment and procedures.

**OFFICE PROCEDURE:** To include private office and case management, the writing and completion of reports and forms for insurance claims, and the provisions, rules and regulations of the Chiropractic Act.

(d) Additional Hours and Subjects. The school, if it desires, may offer and may require for graduation, course of more than 4,000 hours. Such additional hours may be in elective subjects.

(e) Clinics. Each student shall be provided with actual clinical experience in the examining, diagnosing, and treatment of patients. Said clinical experience shall include spinal analysis, palpation, chiropractic philosophy, symptomatology, laboratory diagnosis, physical diagnosis, X-ray interpretation, postural analysis, diagnostic impressions, and adjusting of various articulations of the body, psychological counseling, dietetics and physical therapy. Individual case files on each patient together with a record of dates and treatments given and student treating shall be kept and available to the board for inspection.

#### **HISTORY:**

1. Amendment filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9).

#### **§331.12.2. Curriculum.**

All applicants for licensure shall be required to comply with this section in order to qualify for a California chiropractic license.

(a) Course of Study: Every school shall have a curriculum which indicates objectives, content and methods of instruction for each subject offered.

(b) Required Hours and Subjects: Each applicant shall offer proof of completion of a course of instruction in a Board-approved chiropractic college of not less than 4,400 hours which includes

minimum educational requirements set forth in Section 5 of the Act. The course of instruction completed by the applicant shall consist of no less than the following minimum hours, except as otherwise provided:

Group I	Anatomy, including embryology, histology and human dissection	616 hours
Group II	Physiology (must include laboratory work)	264 hours
Group III	Biochemistry, clinical nutrition, and dietetics	264 hours
Group IV	Pathology, bacteriology, and toxicology	440 hours
Group V	Public health, hygiene and sanitation, and emergency care	132 hours
Group VI	Diagnosis, including E.E.N.T. and serology, dermatology and sexually transmitted diseases, geriatrics, X-ray interpretation, and neurology	792 hours
Group VII	Obstetrics, gynecology, and pediatrics	132 hours
Group VIII	Principles and practice of chiropractic to include chiropractic technique, chiropractic philosophy, orthopedics, X-ray technique, and radiation protection	430 hours
	Clinic, including office procedure	518 hours
	Physiotherapy	120 hours
	Psychiatry	32 hours
Electives		660 hours
<b>Total</b>		<b>4,400 hours</b>

(c) Subject Presentation: Laboratory teaching with actual student participation shall be included in human dissection, histology, chemistry, physiology, bacteriology, pathology, X-ray and physiotherapy. Each school shall have and use at least one phantom or equivalent equipment for X-ray class and other courses as may be necessary for adequate teaching.

Classes shall be presented in proper academic sequence. Each student shall be taught micro and gross anatomy, human dissection, and physiology before pathology; biochemistry before or concurrent with physiology; and diagnosis before or concurrent with the study of pathology. Clinic hours shall be taken only after a student completes all hours in or concurrently with diagnosis.

(1) ANATOMY: To include gross anatomy, human dissection, embryology and histology.

(2) PHYSIOLOGY: To include the physiology of blood and lymph, circulation, respiration, excretion, digestion, metabolism, endocrines, special senses and nervous system.

(3) BIOCHEMISTRY AND NUTRITION: Biochemistry to include the chemistry of foods, digestion, and metabolism. Nutrition to include dietetics and clinical nutrition in the prevention and treatment of illnesses.

(4) **PATHOLOGY AND BACTERIOLOGY:** Pathology to include general and special pathology. Bacteriology to include parasitology and serology.

(5) **PUBLIC HEALTH, HYGIENE, SANITATION AND EMERGENCY CARE:** To include sanitary and hygienic procedures, First Aid, minor surgery, prevention of disease, and Public Health Department regulations.

(6) **DIAGNOSIS:** To include physical, clinical, laboratory and differential diagnosis; E.E.N.T., geriatrics, serology, dermatology, syphilology, roentgenology (technique and interpretation) and the rules and regulations of the Radiologic Technology Certification Committee of the State Department of Health Services.

(7) **OBSTETRICS, GYNECOLOGY AND PEDIATRICS:** To include the standard routine diagnostic procedures and clinical and laboratory examinations.

(8) **PRINCIPLES AND PRACTICE OF CHIROPRACTIC, DIETETICS, PHYSIOTHERAPY, AND OFFICE PROCEDURE:** To include history and principles of chiropractic, spinal analysis, adjustive technique of all articulations of the body, orthopedics and patient counseling in curriculum subject matters.

(9) **PHYSIOTHERAPY:** To be eligible for licensure, each applicant must furnish proof satisfactory to the Board of successful completion of the required 120 hours of physiotherapy course work and additional clinical training in which the theory, principles and use of the standard recognized physiotherapy equipment and procedures were demonstrated to and used by the applicant. This shall include a minimum of thirty (30) patient office visits in which physiotherapy procedures are performed by the student on their own clinic patients. If physiotherapy course work is not offered by the chiropractic college where the student matriculated, the required instruction and clinical training in physiotherapy may be completed at another Board-approved chiropractic college, provided such course is a regular credit course offered primarily to matriculated students.

Physiotherapy course work not completed prior to graduation from chiropractic college may be fulfilled by course work taken subsequent to graduation at a Board-approved chiropractic college in conjunction with clinical training in physiotherapy offered by that college. Such course work and clinical training must be regular credit course work and clinical training offered primarily to matriculated students.

(10) **OFFICE PROCEDURE:** To include private office and case management, the writing and completion of reports and forms for insurance claims, and the provisions, rules and regulations of the Chiropractic Act, and the Radiologic Technology Certification Committee of the State Department of Health Services.

(d) **Additional Hours and Subjects:** It is recommended that a school offer elective subjects, including chiropractic meridian therapy, counseling, hypnotherapy and biofeedback. The school may offer and require for graduation courses of more than 4,400 hours.

(e) **Clinics:** Each student shall be provided with actual clinical experience in the examining, diagnosing, and treatment of patients. Such clinical experience shall include spinal analysis, palpation, chiropractic philosophy, symptomatology, laboratory diagnosis, physical diagnosis, X-ray interpretation, postural analysis, diagnostic impressions, and adjusting of various articulations of the body, psychological counseling and dietetics. Individual case files on each patient together with a record of dates and treatments given and student treating shall be kept and available to the board for inspection.

Clinical hours, as described in this section, including those relating to physiotherapy, must be completed in a clinic operated or supervised by a chiropractic college.

Each student shall be required to complete, as a minimum for graduation, the following:

(1) Twenty-five (25) physical examinations of which at least ten (10) are of outside (not student) patients.

A physical examination shall include an evaluation of all vital signs, case history, orthopedic and neurological testing.

Students shall also have practical clinical laboratory training, including twenty-five (25) urinalyses, twenty (20) complete blood counts (CBCs), ten (10) blood chemistries, and thirty (30) X-ray examinations. Students shall perform ten (10) proctological and ten (10) gynecological examinations. Proctological and gynecological examinations may be performed on a phantom approved by the Board. Gynecological and proctological examinations not completed prior to graduation may be completed after graduation at a Board-approved chiropractic college.

(2) Students shall perform a minimum of two hundred and fifty (250) patient treatments (visits), including diagnostic procedures, chiropractic adjustive technique and patient evaluation.

(3) Written interpretation of at least thirty (30) different X-ray views, either slide or film, while a senior in the clinic, in addition to other classroom requirements which shall include the spinal column, all other articulations of the body, and soft tissue.

(4) Minimum of five hundred eighteen (518) hours of practical clinical experience (treating patients in the clinic).

NOTE: Authority cited: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxvii). Reference: Section 1000-4(g) and 5, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxvii).

#### HISTORY:

1. Repealer and new section filed 8-19-77; effective thirtieth day thereafter (Register 77, No. 34).
2. Renumbering of Section 331.12.3 to Section 331.12.2 and amendment filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9). For history of former Section 331.12.2, see Register 76, No. 50.
3. Amendment of subsection (e) filed 6-4-80; effective thirtieth day thereafter (Register 80, No. 23).
4. Amendment filed 4-17-2001; operative 5-17-2001 (Register 2001, No. 16).
5. Amendment of subsection (e)(1) and amendment of Note filed 9-10-2002; operative 10-10-2002 (Register 2002, No. 37).

#### **§331.12.3. Eligibility to Take Board Examination.**

To be eligible to take the board examination, each applicant for licensure must furnish proof satisfactory to the Board of meeting all licensure requirements.

NOTE: Authority cited: Section 4(b) and 4(g) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 5 of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

**HISTORY:**

1. New section filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Renumbering of Section 331.12.4 to Section 331.12.3 and amendment filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9).
3. Amendment of subsection (a) filed 6-20-78; effective thirtieth day thereafter (Register 78, No. 25).
4. Repealer filed 7-16-79; effective thirtieth day thereafter (Register 79, No. 29).
5. New section filed 4-17-2001; operative 5-17-2001 (Register 2001, No. 16).

**§331.13. Physical Facilities.**

(a) General: Each school shall own, or enjoy the assured use of a physical plant large enough to accommodate classrooms, lecture rooms, laboratories, a clinic, a library and administrative and faculty offices. Each school shall meet and maintain the standards and requirements established by or under the authority of the laws of the State of California governing educational institutions and all applicable city and county ordinances wherein the school is located and shall maintain competent evidence of such compliance, for examination by the Board.

(b) Administrative Offices: The administrative offices shall provide adequate office space for faculty members.

There shall be space available for faculty conferences.

All furnishings shall be serviceable and functional and there shall be sufficient office equipment, subject to Board approval, to efficiently manage the business of the school.

There shall be fireproof storage for all records and documents required by the Chiropractic Initiative Act, statute, or regulations.

All administrative offices shall meet the standards and requirements incorporated by subparagraph (a) above.

(c) Classrooms: There shall be sufficient number and size of classrooms to separately accommodate the graded classes in 1st, 2nd, 3rd and 4th year classes. No two or more subjects shall be taught in the same classroom simultaneously. No two or more student classes (1st, 2nd, 3rd and 4th year) shall be taught in the same classroom simultaneously.

Classrooms shall be located where there is quiet and freedom from interruption and distraction.

All classrooms shall be furnished with audio-visual aids appropriate to the subject matter being taught, and desks and chairs or tablet armchairs. There shall be effective shades to darken rooms equipped with visual projection apparatus.

All classrooms shall meet the standards and requirements incorporated by subparagraph (a) above.

(d) Laboratories: Laboratories shall be well lighted and ventilated and shall be equipped for the practical work in human dissection, histology, chemistry, physiology, bacteriology, pathology, laboratory diagnosis, roentgenology, physiotherapy and chiropractic technique.

Anatomy and pathology laboratories shall contain standard equipment. No more than ten (10) students shall be assigned per table. Sinks should be equipped with wrist action or foot pedal valves, and supplied in a sufficient number. Human cadavers and specimens for individual and small group demonstrations shall be supplied. If human cadavers are not available, or state law prohibits their use, schools must obtain prior written approval from this Board.

Microscopic laboratories shall have one microscope and one desk light for each two (2) students in the class.

Chiropractic technique laboratories shall be equipped with one chiropractic adjusting table for every four (4) students in the class.

Actual student experience with X-ray phantom or equivalent for all areas of the body shall be necessary.

Additionally, all laboratories shall meet the standards and requirements incorporated in subparagraph (a) above.

(f) Teaching Aids and Equipment: For the subject of physiotherapy there shall be sufficient generally recognized equipment for classroom and clinic purposes (to include sine galvanic, ultrasound, diathermy, ultraviolet, heat, cold, percussion, and transaction). For the practical work and physical diagnosis students shall be required to own the ordinary and usual diagnostic instruments, including, but not limited to, thermometers, stethoscopes, sphygmomanometers, oto-ophthalmoscope examination sets, and orthopedic-neurological examination instruments. Each school shall own and teach the use of the current standard diagnostic instruments and a list of same shall be made available to the Board upon request. For classroom demonstration and visual education aids, each school shall own charts, mannequins, skeletons, bone collections, anatomical and embryological models, stereopticons, balopticons, micro-projections, and video players or similar projection equipment. The film and slide library shall be constantly augmented by the addition of new material.

(g) Library: A library shall be provided for the use of the student body. The minimum requirements for a library are:

(1) Operation of the library shall be under the direct supervision of a full-time librarian holding a degree in library science.

(2) The library shall be open to students a minimum of eight (8) hours per day. It shall have room available for study purposes to accommodate at least ten (10) percent of the enrolled students at one time. Hours shall be posted.

(3) The library volumes shall be cataloged, using a generally accepted system.



(4) The library shall consist of a minimum of 5,000 volumes of which 2,000 shall be less than ten years of age. Only cataloged scientific volumes which are of interest to the published curriculum of the school can be counted as library volumes. Unbound journals and periodicals shall not be counted in determining compliance with this rule.

(5) Each school shall conduct a program of student orientation as to the use of the library and class assignments involving the use of the library.

(h) Clinic: Each school shall operate a general out-patient clinic where the senior students will obtain actual experience, practical knowledge and skill in:

(1) Diagnosis, including physical examination, palpation, spinal analysis, clinical pathological, laboratory findings, X-ray, and tentative and working diagnoses.

(2) Adjustive technique, dietetics, and psychotherapy for the care or prevention of disease in accordance with Section 7 of the Act.

Such a clinic shall at all times be under the supervision of a clinician who meets the standards of the Council on Chiropractic Education.

The minimum requirements of a clinic are:

(A) A reception room with a minimum seating capacity for ten (10) persons.

(B) A minimum of five (5) patient dressing rooms that are equipped with at least curtains to ensure privacy.

(C) An administration area wherein at least one full-time secretary shall be located and patient files shall be maintained.

(D) A minimum of one (1) office for each faculty member supervising the clinic with a minimum of two (2) such offices.

(E) Separate lavatories for men and women with a minimum of one (1) each.

(F) A minimum of one (1) physical examination room for every ten (10) students concurrently present and enrolled in the clinic.

(G) A minimum of one (1) chiropractic adjusting table for every five (5) students performing adjustments on clinic patients with a minimum of five (5) such tables.

(H) A minimum of one (1) X-ray examination room that is equipped with at least one (1) X-ray machine that has a capacity of no less than 125 KV plus 300 M.A. There shall also be an X-ray developing room that is equipped with the appropriate and necessary film processing equipment as required by the Board. This room may be an area within the X-ray procedure room or shall be located in the immediate area in the same building of such X-ray procedure room. A list of minimal X-ray equipment which shall be used must be obtained from the Board.

(I) A lab room equipped with a sterilization facility, unless waived in writing by the Board.

(J) In addition to the requirements of section 331.12(e), each student's work, conduct, reliability and personality shall be evaluated in writing by his or her supervising teacher and such evaluation shall become a part of the student's record and shall be available for inspection by the Board.

(i) Operation and Maintenance of the Physical Plant. In addition to the requirement of subparagraph (a) above, each school shall operate and maintain all physical equipment in good repair.

Lockers shall be available for student use.

**HISTORY:**

1. Amendment of subsection (h)(2) filed 8-19-77; effective thirtieth day thereafter (Register 77, No. 34).
2. Amendment of subsection (h)(2) filed 8-29-77 as an emergency; designated effective 9-18-77. Certificate of Compliance included (Register 77, No. 34).
3. Amendment filed 4-17-2001; operative 5-17-2001 (Register 2001, No. 16).

**§331.14. Quality of Instruction.**

Nothing herein contained shall constitute any limitation or restriction upon the power of the Board to refuse to approve, or to disapprove, any school if in the opinion of the Board the quality of instruction is not sufficiently high to meet the objective of the State Chiropractic Act or these rules.

**§331.15. Violations or Failure to Comply.**

(a) Any violation of these rules, or failure to comply with them, shall be grounds to revoke approval of any school, and to refuse approval to any school, or to any applicant.

(b) If any school provisionally approved or approved by the Board undergoes fundamental changes in its administration, organization or stated objectives, provisional approval or approval shall be suspended until such time as the Board again appraises the institution.

Such changes include but are not limited to change in ownership of the school or its assets or noncompliance with Section 29032(a)(2) of the Education Code.

(c) In the event an approved school or a school applying for provisional approval fails to maintain or meet the required standards, the institution will be given a bill of particulars and granted 60 days to comply; in the event such corrections are not made within said time, the institution will be removed from the approved list or denied provisional approval.

(d) Institutions rejected or removed from the approved list may apply for reconsideration or reinstatement in accordance with Rule 331.

### **§331.16. Definition of Board.**

Whenever the Board is used in this article, it shall mean the Board of Chiropractic Examiners unless otherwise indicated.

## **Article 5. Examinations**

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### **§340. Examinations.**

The examination shall be administered a minimum of two (2) times each year. It shall be held in a location accessible to the applicants; and it shall be administered in a manner which maintains the validity and reliability of the examination, and provides on-site anonymity to the applicants. The examination shall be conducted in a manner to assure a reasonable expectation of the fair and impartial evaluation of the applicants' knowledge, and their ability to practice chiropractic in the best interests of the public health and welfare.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Section 1000-6(c), Business and Professions Code.

**HISTORY:**

1. Renumbering of Article 6 (Sections 355 through 366) to Article 5 (Sections 340 through 351) filed 1-31-72; effective thirtieth day thereafter (Register 72, No. 6). For prior history see Registers 65, No. 24, and 68, No. 2. For history of former Article 5, see Register 55, No. 16.
2. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
3. Repealer and new section filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§341. Other Articles Forbidden.**

During the examination, no applicant will be permitted to have in his possession any paper or object other than the examination questions, examination paper, pencil supplied by the board, and a watch. Further, an applicant is forbidden from wearing any jewelry which includes rings, tie clasps, belt buckles and bracelets which identifies an applicant with a particular chiropractic association, philosophy, or school.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Section 1000-6(c), Business and Professions Code.

**HISTORY:**

1. Repealer of former Section 341, and renumbering and amendment of Section 344 to Section 341 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

### **§342. Conduct During Examination.**

No applicant will be permitted to communicate in any way with any other applicant, nor will he be permitted to question any examiner in reference to or interpretation of the questions under consideration. Applicants must rely solely upon their own judgment as to the meaning of each question, and on their own knowledge of the subject in answering. Any disturbance on the part of

the applicant will disqualify said applicant and he will be required to leave the examination room.

NOTE: Authority cited: Sections 1000-4(b), 1000-4(e), Business and Professions Code. Reference: Sections 1000-4(c) and 1000-6(c), Business and Professions Code.

HISTORY:

1. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Repealer of former Section 342, and renumbering and amendment of Section 345 to Section 342 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

**§343. Basis of Questions.**

All examination questions shall be with respect to the subject listed in Groups 1 to 8, inclusive, set forth in Sections 331.12.1, 331.12.2, and 331.12.3 of these rules. They shall be based upon material contained in standard textbooks approved by the board.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-5 and 1000-6(c), Business and Professions Code.

HISTORY:

1. Repealer of former Section 343, and renumbering and amendment of former Section 346 to Section 343 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

**§344. Cheating.**

Any person, who upon good cause shown, is suspected of cheating shall be ousted from the examination and, upon a finding that said person did, in fact, cheat on that exam, said person will be denied further examination for a period of at least one year thereafter. Notice of such action against an individual caught cheating shall be submitted to all state chiropractic boards.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Sections 1000-4(c) and 1000-6(c), Business and Professions Code.

HISTORY:

1. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Renumbering and amendment of former Section 344 to Section 341, and renumbering and amendment of Section 347 to Section 344 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

**§345. Retention of Papers.**

Examination papers will be retained by the board for one year and destroyed at the end of that time.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code. Reference: Sections 1000-4(c) and 1000-6(c), Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former Section 345 to Section 342, and renumbering and amendment of former Section 348 to Section 345 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

#### **§346. Interpretation of Part of Section 6(c) of the Act.**

The board makes the following interpretation of that part of Section 6(c) of the Act which states that: "Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further costs, take the examination at the next regular examination on the subjects in which he failed."

Candidates are considered to have failed a subject if they receive a grade in that subject of less than seventy-five percent (75%).

If first-time applicants, or retake applicants considered as first-time applicants by this section, having taken the examination and failed to receive the grade as required in Section 6(c),

(a) do not take the examination in the failed branches as required by the board, at the next regular examination, or

(b) fail to obtain grades sufficient to bring the general average to at least seventy-five percent (75%), or receives less than sixty percent (60%) in more than two subjects in which examined (grades in the subjects credited the previous examination are to be included in determining such general average), or

(c) fail to receive a 75 percent (75%), or better, on each part of the practical examination, then the credit allowed in the branches passed in the first examination shall lapse.

If, thereafter, candidates desire to reapply, they shall renew their application together with an additional application license fee, and shall be examined in the same manner and to the same extent as though they had not previously taken any examination.

NOTE: Authority cited: Sections 1000-4, 1000-6 and 1000-10, Business and Professions Code. Reference: Section 1000-6(c), Business and Professions Code.

#### **HISTORY:**

1. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Renumbering and amendment of former Section 346 to Section 343, and renumbering and amendment of Section 350 to Section 346 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

#### **§347. Cheating.**

NOTE: Authority cited: Section 4(b), Chiropractic Initiative Act of California. Reference: Section 4(b), Chiropractic Initiative Act of California.

#### **HISTORY:**

1. Amendment filed 12-12-78; effective thirtieth day thereafter (Register 78, No. 50).
2. Renumbering and amendment of Section 347 to Section 344 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

### **§348. Failure to Appear for Examination.**

An applicant for a license to practice chiropractic who fails to appear for examination within one year after being first qualifying therefor shall be considered to have abandoned his application and shall forfeit the license fee paid in connection therewith. If such person thereafter applies for a license, he shall be required to establish his eligibility for such license in the same manner as an original applicant in accordance with the provisions of the act and the regulations of the board in effect at the time the new application is filed.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Section 1000-5, Business and Professions Code.

#### **HISTORY:**

1. Renumbering and amendment of former Section 348 to Section 345, and renumbering and amendment of former Section 351 to Section 348 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

### **§349. Interpretation of Section 6(d) of the Act.**

(a) For applicants applying for licensure through June 30, 1996, the board makes the following interpretation of Section 6(d) of the Act which states:

“An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer such certificate together with a transcript of grades secured in said national board examination, and the California Board of Chiropractic Examiners may accept same in lieu of all or a portion of the California board examination as determined by the board.”

(1) To be considered by the board, proof of status with the National Board of Chiropractic Examiners must be submitted to the board's office in compliance with application instructions and postmarked on or before the final filing date designated by the board.

(2) Applicants with National Board status who fail the board examination, under the provisions of Section 346 must retake the entire written and practical examinations of the board.

(3) Effective January 1, 1996: Prior to being scheduled for the practical portion of the California board examination, the applicant must show proof of either National Board status or successful completion of the entire written portion of the California licensure examination.

(4) National Board status means attainment of passing scores on the National Board Parts I, II, III, and Physiotherapy examinations.

(b) For applicants applying for licensure on or after July 1, 1996, the Board makes the following interpretation of Section 6(d) of the Act which states:

“An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certification from the National Board of Chiropractic Examiners, may offer such certificate together with a transcript of grades secured in said national board examination, and the California Board of Chiropractic Examiners may accept same in lieu of all or a portion of the California board examination as determined by the board.”

(1) To be eligible for the California Chiropractic Board examination, proof of status with the National Board of Chiropractic Examiners must be submitted to the board's office in compliance with application instructions and postmarked on or before the final filing date designated by the board.

(2) All applicants for licensure must show proof of National Board status, and successful scores for the California Chiropractic Board examination, which may cover California laws and regulations governing the practice of chiropractic, and/or other subjects as taught in chiropractic schools or colleges.

(3) Applicants who fail components of the California Chiropractic Board examination after two attempts must, under the provisions of Section 346, retake all of the California Chiropractic Board examination.

(4) The National Board of Chiropractic Examiners examination Parts I, II, III, IV, and Physiotherapy, and the California Chiropractic Board examination shall constitute the California board licensure requirement.

(5) National Board status means attainment of passing scores on the National Board Parts I, II, III, IV, and Physiotherapy examinations.

(6) The California Chiropractic Board examination means the examination developed by the Board of Chiropractic Examiners or an agency designated by the board. This California Chiropractic Board examination shall cover California laws and regulations governing the practice of chiropractic, and/or other subjects as taught in chiropractic schools or colleges, and must be taken after the candidate has graduated from chiropractic college.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), Business and Professions Code. Reference: Section 1000-6(d), Business and Professions Code.

**HISTORY:**

1. Repealer filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Renumbering and amendment of former Section 352 to Section 349 filed 7-30-87; operative 8-29-87 (Register 87, No. 32).
3. Amendment of second paragraph and subsection (a), new subsections (c)-(d) and amendment of Note filed 8-14-95; operative 1-1-96 (Register 95, No. 33).
4. Redesignation and amendment of first paragraph to subsection (a), subsection renumbering, amendment of newly designated subsection (a)(4) and new subsections (b)-(b)(6) filed 6-18-96; operative 6-18-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 25).

**§350. Interpretation of Part of Section 6(c) of the Act.**

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 6 of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

**HISTORY:**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2). For prior history, see Register 76, No. 12.
2. Amendment filed 8-18-77; effective thirtieth day thereafter (Register 77, No. 34).

3. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
4. Amendment filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).
5. Renumbering and amendment of Section 350 to Section 346 filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§351. Failure to Appear for Examination.**

#### **HISTORY:**

1. Renumbering and amendment of Section 351 to Section 348 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 80, No. 5.

### **§352. Interpretation of Section 6(d) of the Act.**

NOTE: Authority cited Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 6 d) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

#### **HISTORY:**

1. New section filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment of subsection (a) filed 2-5-80; effective thirtieth day thereafter (Register 80, No. 5).
3. Renumbering and amendment of Section 352 to Section 349 filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

### **§353. Failure of the Examination.**

#### **HISTORY:**

1. New section filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Repealer filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9).

### **§354. Successful Examination.**

Notwithstanding Section 312, applicants who are notified in writing by the Board of the successful completion of the Board examination, may immediately commence the practice of chiropractic in California pending the receipt of their certificate.

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

#### **HISTORY:**

1. New section filed 10-18-79; effective thirtieth day thereafter (Register 79, No. 42).



## Article 6. Continuing Education

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### §355. Renewal and Restoration.

(a) Commencing with the renewal period for 1973, each licensee and each applicant for restoration of a license forfeited for failure to renew shall, as a condition to renewal or restoration of his license and in addition to paying the annual renewal fee of one hundred fifty dollars (\$150.00) or restoration fee of double the annual renewal fee as provided by section 12 of the Act (California Business and Professions Code section 1000-12), submit proof that he has completed within the past 12 months a course of continuing education approved by the board on a form (No. 09RA-1 (8/91) provided by the board titled Renewal Application. The Renewal Application as provided by the board will indicate the current year of renewal.

(b) In lieu of submitting the proof of completion of continuing education required under subsection (a) above, any such licensee or applicant may submit a statement, which shall be verified or certified under penalty of perjury, that he or she will not engage in the practice of Chiropractic within the State of California during the period for which renewal or restoration is sought unless he or she first completes an approved course of continuing education and submits proof thereof to the board; and that he or she understands that failure to do so will constitute grounds for the suspension or revocation of his or her license. A license that has expired for failure to renew may be renewed at any time within three years after the expiration date. If no application is received within three years, the Board shall cancel the license.

(c) To restore a cancelled license, the person must submit to the Board's office, in compliance with the application instructions, an application for restoration, pay a fee of twice the annual amount of the renewal fee, and provide evidence of Board-approved continuing education, as specified in California Code of Regulations, section 356, for each 12-month period in which the license was cancelled. Continuing education required to restore a cancelled licensed must be commenced and completed during the 12-month period immediately preceding the request for restoration.

(d) Licenses for doctors of chiropractic which heretofore expired on the last day of December each year will henceforth expire on the last day of the birth month of the licensee in each year.

To facilitate the conversion to the birthdate renewal system for doctors of chiropractic, licenses that expire on December 31, 1991 will be renewed for periods from seven (7) to eighteen (18) months. The fee to be paid shall be that determined by multiplying 1/12 of the renewal fee by the number of months of licensure in accord with the following schedule. All fees shall be rounded to the nearest whole dollar.

Licensees Born In	Will Be Licensed for The Period	Months of Licensure
January	January 92-January 93	13
February	January 92-February 93	14
March	January 92-March 93	15
April	January 92-April 93	16
May	January 92-May 93	17

June	January 92-June 93	18
July	January 92-July 92	7
August	January 92-August 92	8
September	January 92-September 92	9
October	January 92-October 92	10
November	January 92-November 92	11
December	January 92-December 92	12

This will be a one time reduction or increase, effective January 1992 all licenses will be annually renewed on a birthdate renewal system.

This subsection shall remain in effect until June 30, 1993, and on such date is repealed.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), Business and Professions Code. Reference: Section 1000-12, Business and Professions Code.

**HISTORY:**

1. New article 6 (sections 355 through 358) filed 1-31-72; effective thirtieth day thereafter (Register 72, No. 6).
2. Amendment of subsection (a) filed 5-26-88; operative 6-25-88 (Register 88, No. 23).
3. Amendment of subsection (a) and new subsection (c) filed 4-23-91; operative 5-23-91 (Register 91, No. 21).
4. Amendment of subsection (b), new subsection (c) and subsection relettering filed 3-19-2001; operative 4-18-2001 (Register 2001, No. 12).

**§355.1. Continued Jurisdiction of a License.**

The suspension, expiration, or forfeiture by operation of law of a license issued by the board, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

**HISTORY:**

1. New section filed 12-6-2000; operative 1-5-2001 (Register 2000, No. 49).
2. Editorial correction restoring inadvertently omitted word (Register 2001, No. 3).

**§355.2. Inactive License.**

A licensed chiropractor may apply to the board to request that his or her license be placed on inactive status. An inactive license shall be renewed during the same time period at which an active license is renewed. The renewal fee for a license in an inactive status shall be the same fee

assessed for renewal of an active license. Licensees holding an inactive license shall be exempt from continuing education requirements.

The holder of an inactive license shall not engage in the practice of chiropractic during the time the license is inactive.

Licensees on inactive status who have not committed any acts or crimes constituting grounds for discipline may submit a written request for an active license and the following:

(a) Evidence of board-approved continuing education for each 12-month period or portion thereof the license was inactive. The continuing education must be taken prior to the request for activation and shall comply with California Code of Regulations section 356; or

(b) If practicing in another state, provide proof of licensure and continuing education from that state for each 12-month period the license was inactive in California.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

HISTORY;

1. New section filed 7-2-2001; operative 8-1-2001 (Register 2001, No. 27).

### **§356. Course Content.**

(a) All doctors engaged in active practice, whether on a full-time or part-time basis, shall complete a minimum of twelve (12) hours per licensing year of continuing education courses approved by the board.

The board shall consider for approval the application of any continuing education course which conforms to the criteria below and is sponsored by a board approved continuing education provider.

A continuing education course may contain more than twelve (12) hours of approved subject material. Any twelve (12) approved hours may be selected for continuing education credit, provided, however, the same course may not be attended more than once for credit within that licensing year, and four (4) hours of every twelve (12) hours selected for continuing education credit must be in the subject area of adjustive technique. The four (4) hours in adjustive technique may be satisfied by lecture and demonstration.

The basic objectives and goals of continuing education are the growth, maintenance of knowledge and competency, the cultivation of skills, and greater understanding, with a continual striving for excellence in chiropractic care and the improvement in the health and welfare of the public.

(b) Each course approved by the board must present subject material directly related to the concepts of chiropractic principles and practice including diagnostic procedures, patient care and management. The board recommends special attention be given to the following:

(1) Principles of practice of chiropractic and office procedures including, but not limited to:

(A) Chiropractic treatment and adjustment technique, including physiotherapy, nutrition and dietetics;

(B) Examination and diagnosis or analysis including physical, laboratory, orthopedic, neurological and differential;

(2) Radiographic technique and interpretation involving all phases of roentgenology as permitted by law;

(A) Study of the methods employed in the prevention of excessive radiation and safety precautions to the patient;

(3) Postgraduate studies including, but not limited to, subjects contained within groups one through six of Section 5 of the Chiropractic Initiative Act;

(4) Insurance procedures and reporting.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code.

Reference: Sections 1000-4(b) and 1000-10(a), Business and Professions Code.

HISTORY:

1. Amendment filed 5-5-78; effective thirtieth day thereafter (Register 78, No. 18).
2. Amendment of subsection (d) filed 7-30-87; operative 8-29-87 (Register 87, No. 32).
3. Amendment of subsection (d) filed 6-3-92; operative 7-3-92 (Register 92, No. 23).
4. Amendment filed 3-22-99; operative 3-22-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

#### **§356.5. Continuing Education Provider Approval, Duties and Responsibilities.**

(a) In order to become and remain eligible for approval by the board as a continuing education provider, each provider must comply with provisions (b)(1) through (b)(10) of this section and provisions of section 357. Failure to comply with these provisions may result in the withdrawal of approval of the provider by the board. A provider that has had its approval withdrawn by the board shall not be eligible to provide continuing education credit until the board reinstates the provider. A provider that has lost approval may reapply to the board for approval as a continuing education provider after a period of suspension established by the board at the time that approval is withdrawn not to exceed two years.

(b) Each continuing education provider shall:

(1) Make written application to the board for approval as a continuing education provider, and also provide to the board a written mission statement that outlines the provider's continuing education objectives and declares the provider's commitment to conform to the standards set forth in this section. Applications for approval shall be submitted to the board office at least 30 days prior to a scheduled board meeting. Providers with applications that are incomplete will be notified of the deficiencies in writing within three weeks from the date of receipt. Complete applications will be reviewed at the scheduled board meeting and notification of the board's decision will be provided in writing within two weeks following the board meeting;

(2) Have engaged in the business of providing education to licensed health care professionals consisting of no less than one course in each year of a five year period immediately preceding the date of application for approval by the board as a continuing education provider;

(3) Designate a person responsible for overseeing all continuing education activities of the provider and provide written notification to the board identifying that individual;

(4) Use teaching methods that ensure student comprehension of the subject matter and concepts being taught;

(5) Establish and maintain procedures for documenting completion of courses, retain attendance records for at least four (4) years from the date of course completion, and furnish the board with a roster of persons completing the course, including the name and state chiropractic license number of each course participant, within sixty (60) days of course completion. Failure to submit the list of course participants within sixty (60) days of course completion may be grounds for withdrawal or denial of course approval;

(6) Be responsible for maintaining full-time monitoring of course attendance. If any participant's absence from the room exceeds ten (10) minutes during any one hour period, credit for that hour shall be forfeited and such forfeiture shall be noted in the provider's attendance report submitted to the board as required in subsection (b)(5) of this section. It shall further be the responsibility of the provider to see that each person in attendance is in place at the start of each course period. Failure to maintain proper attendance monitoring procedures may be grounds for withdrawal or denial of course approval;

(7) Ensure availability to course participants of meeting rooms, study aids, audiovisual aids, and self-instructional materials designed to foster learning and ensure student comprehension of the subject matter and concepts being taught;

(8) Disclose in any continuing education course advertising if expenses of the program are underwritten or subsidized by any vendors of goods, supplies, or services;

(9) Inform the board immediately of any event that may affect the provider's approval as a continuing education provider by the board;

(10) Inform the board in writing immediately of any change to the course that would affect the date, time or location when or where the course will be held.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code.  
Reference: Sections 1000-4(b) and 1000-10(a), Business and Professions Code.

**HISTORY:**

1. New section filed 3-22-99; operative 3-22-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

### **§357. Approval of Continuing Education Courses.**

(a) The application for approval of a continuing education course shall be submitted to the board office at least 45 days prior to the date of the course and shall include a nonrefundable application fee of \$50.00 and any other documentary information required by the board pursuant to section 356. The application fee for ongoing postgraduate courses presented by chiropractic institutions accredited by the Council on Chiropractic Education (C.C.E.) is due upon initial receipt of the application for approval, regardless of the number of course meetings in one calendar year. Courses with schedules continuing into a second calendar year must submit a new application for the second year if continuing education credit hours are to be offered for that year. The new application for the second year must contain the required fee (\$50.00).

If a course meets the criteria of the board, the board shall notify the provider when a course has been approved.

Mention of such approval shall be included in announcements of the program and the printed program itself as follows: "Approved by the California State Board of Chiropractic Examiners for license renewal."

(b) Any board member, or members, or board designee shall have the right to inspect or audit any approved chiropractic course in progress.

(c) The board, may, after notification and an opportunity to be heard, withdraw approval of any continuing education course, and shall immediately notify the provider of such action.

NOTE: Authority cited: Sections 1000-4(b), 1000-(e), Business and Professions Code.  
Reference: Sections 1000-4(b), 1000-10(a), Business and Professions Code.

#### **HISTORY;**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2).
2. Amendment filed 5-5-78; effective thirtieth day thereafter (Register 78, No. 18).
3. Amendment of subsection (a) filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).
4. Amendment of subsection (a) filed 7-30-87; operative 8-29-87 (Register 87, No. 32).
5. Editorial correction of subsection (a) printing error (Register 87, No. 38).
6. Amendment filed 3-22-99; operative 3-22-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

### **§358. Exemptions and Reduction of Requirement.**

(a) All doctors of chiropractic specifically exempted from, or obtaining a reduction in continuing education requirements include the following:

(1) Inactive licentiates;

(2) New licentiates in the year of initial licensure;

(3) Teachers. A full-time teacher, as defined by C.C.E. regulation, shall be exempt from the required hours until no longer engaged in full-time chiropractic teaching.

(4) Lecturers. A lecturer shall be given two hours credit for each hour of actual lecturing at a recognized course. Credit for the same course presentation shall be granted only once during each year.

(5) If a doctor is unable to attend a continuing education course due to ill health, credit may be granted by the board upon request for documented completion of twelve (12) hours of recorded or videotaped approved continuing education course work. Such an exemption request must be made prior to the date that the required continuing education must be completed and in writing to the board's office and must also be accompanied by an attending doctor's statement.

The licensee shall send to the board's office a signed affidavit affirming he or she has completed twelve (12) hours of approved continuing education tapes and must provide the board with the names and dates of the approved continuing education courses comprising the lecture tapes.

(6) Commissioners on Examination. Commissioners on Examination who administer the practical examination at least twelve (12) hours annually shall be exempt from the continuing education requirement in the years they act as Commissioners on Examination.

(7) Active Board Members. Professional board members who have served one full year on the Board of Chiropractic Examiners shall be exempt from the continuing education requirement in each year of board member service.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code. Reference: Sections 1000-4(b) and 1000-4(e), Business and Professions Code.

**HISTORY:**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2).
2. Repealer and new section filed 5-5-78; effective thirtieth day thereafter (Register 78, No. 18).
3. New subsection (6) filed 9-27-79; effective thirtieth day thereafter (Register 79, No. 39).
4. Amendment filed 7-30-87; operative 8-29-87 (Register 87, No. 32).
5. Amendment filed 3-22-99; operative 3-22-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

**§359. Revoked or Suspended Licenses.**

Any person making application for reinstatement or restoration of a license which has been revoked or suspended may be required, as a part of the relief granted, to complete an approved course of continuing education, or to complete such study or training as the board may require.

**HISTORY:**

1. New section filed 5-5-78; effective thirtieth day thereafter (Register 78, No. 18).

## **Article 7. Chiropractic Corporations**

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### **§367.1. Citation of Rules.**

These rules may be cited and referred to as “Chiropractic Corporation Rules.” They are subject to amendment, modification, revision, supplement, repeal, or other change by appropriate action in the future.

NOTE: Authority cited: Secs. 4(b) and 10(a), Chiropractic Initiative Act and Sec. 1057, Business and Professions Code. Reference: Secs. 1050-1058, Bus. & Prof. Code and Secs. 13400 through 13410, Corporations Code.

#### **HISTORY:**

1. New Article 7 (§§367.1 through 367.10) filed 7-13-71; effective thirtieth day thereafter (Register 71, No. 29).

### **§367.2. Definitions.**

As used in this Article:

(a) “Board” means the State Board of Chiropractic Examiners.

(b) “Licensed person” means a natural person who is duly licensed under the provisions of the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he is, or intends to become, an officer, director, shareholder or employee.

(c) “Certificate of Registration” means a certificate of registration as a chiropractic corporation.

(d) “Professional services” means rendering professional services as a chiropractor.

### **§367.3. Professional Relationships, Responsibilities, and Conduct Not Affected.**

Nothing in the laws or rules relating to chiropractic corporations alters the duties and responsibilities of a licensed person to and professional relationships with his clients and others; nor do such laws or rules in any way impair the disciplinary powers of the State Board of Chiropractic Examiners over licensed persons; nor do such laws or rules impair any other law or rule pertaining to the standards of professional conduct of licensed persons.

### **§367.4. Office for Filing.**

All applications for a Certificate of Registration and any of the documents or reports required by these rules or by law to be filed with the board shall be filed with the principal office of the board in Sacramento.



### **§367.5. Application, Review of Refusal to Approve.**

(a) An applicant corporation shall file with the board an application for Certificate of Registration on a form furnished by the board, which shall be signed and verified by an officer of the corporation who is a licensed person and be accompanied by a nonrefundable application fee in the amount of one hundred dollars (\$100).

(b) The board, within a reasonable time after an application for registration is submitted to it, shall either approve the application and issue a Certificate of Registration or refuse to approve the application and notify the applicant corporation of the reasons therefor.

(c) The board may delegate to its executive secretary, or other official or employee of the board, its authority under Section 1051, Business and Professions Code, to review and approve applications for registration and to issue Certificates of Registration.

(d) Any applicant corporation whose application has been disapproved by the board may request a hearing pursuant to Government Code Section 11504. The hearing shall be conducted pursuant to the Administrative Procedure Act (Government Code Sections 11502-11528).

(e) No applicant corporation shall hold itself out or engage in nor shall it render any professional services unless and until a Certificate of Registration has been issued.

NOTE: Authority cited: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii). Reference: Section 4(b) of the Chiropractic Initiative Act of California (Stats. 1923, p. lxxxviii).

#### **HISTORY:**

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2).
2. Amendment of subsection (a) filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).

### **§367.6. Requirements for Issuance of Certificate of Registration.**

A Certificate of Registration shall be issued if the board or the person delegated by it finds that the affairs of the applicant will be conducted in compliance with law and the rules and regulations of the board.

### **§367.7. Name of Corporation.**

(a) The name of the corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of its present, prospective, or former shareholders, and include the word "Chiropractic," and the word "Corporation" or wording or abbreviations denoting corporate existence, limited to one of the following: "Corp"; "Incorporated"; "Inc."; "Professional Corporation"; "Prof. Corp."

### **§367.8. Security for Claims Against a Chiropractic Corporation.**

(a) When a chiropractic corporation provides security by means of insurance for claims against it by its patients, the security shall consist of a policy or policies of insurance insuring the corporation against liability imposed upon it by law for damages arising out of claims against it by its patients arising out of the rendering of, or failure to render, chiropractic services by the corporation an amount for each claim of at least \$50,000 multiplied by the number of employed licensed persons rendering such chiropractic services and an aggregate maximum limit of liability per policy year of at least \$150,000 multiplied by the number of such employees, provided that the maximum coverage shall not be required to exceed \$150,000 for each claim and \$450,000 for all claims during the policy year, and provided further that the deductible portion of such insurance shall not exceed \$5,000 multiplied by the number of such employees.

(b) All shareholders of the corporation shall be jointly and severally liable for all claims established against the corporation by its patients arising out of the rendering of, or failure to render, chiropractic services up to the minimum amounts specified for insurance under subsection (a) hereof except during periods of time when the corporation shall provide and maintain insurance for claims against it by its patients arising out of the rendering of, or failure to render chiropractic services. Said insurance, when provided, shall meet the minimum standards established in subsection (a) above.

### **§367.9. Shares: Ownership and Transfer.**

(a) The shares of a chiropractic corporation may be issued only to a licensed person and may be transferred only to a licensed person or to the issuing corporation.

(b) Where there are two or more shareholders in a chiropractic corporation and one of the shareholders:

(1) Dies, or

(2) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, his or her shares shall be transferred to a licensed person or to the issuing chiropractic corporation, on such terms as are agreed upon. Such transfer shall occur not later than six (6) months after any such death and not later than ninety (90) days after the date he or she becomes a disqualified person. A person disqualified by license suspension or revocation shall notify the Board when his or her shares are transferred. In the event that a person becomes disqualified by death, the representative of the deceased shareholder shall notify the Board of the transfer of the deceased shareholder's shares.

(c) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he again ceases to become a disqualified person.

(d) The restrictions of subsection (a) and, if appropriate, subsection (b) of this section shall be set forth in the corporation's bylaws or articles of incorporation.

(e) The share certificates of a chiropractic corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subsection (a), and where applicable, the restriction of subsection (b), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the bylaws or articles of incorporation of the corporation wherein the restrictions are set forth.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code Reference: Section 1000(b), Business and Professions Code. Section 13407, Corporations Code.

**HISTORY:**

1. Amendment of subsection (b)(2) and new Note filed 7-19-2001; operative 8-18-2001 (Register 2001, No. 29).

**§367.10. Certificate of Registration; Continuing Validity; Reports.**

(a) A Certificate of Registration shall continue in effect until it is suspended or revoked. Such certificate may be suspended or revoked for any of the grounds permitted by law.

(b) Each chiropractic corporation shall file a special report, on a form provided by the Board, within 30 days of any change of the officers, directors, shareholders, employees rendering professional services, and articles of incorporation.

(c) Each special report filed hereunder shall be accompanied by a filing fee of five dollars (\$5).

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**Article 8. Conflict of Interest Code**

NOTE: It having been found, pursuant to Government Code Section 11409(a), that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

BOARD OF CHIROPRACTIC EXAMINERS  
3401 FOLSOM BOULEVARD, SUITE B  
SACRAMENTO, CA 95816-5354

FAIR POLITICAL PRACTICES COMMISSION  
428 J STREET, SUITE 800  
SACRAMENTO, CA 95814

ARCHIVES  
SECRETARY OF STATE  
1020 "O" STREET  
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Article 8 of Division 4 of Title 16 of the California Code of Regulations, and consists of sections numbered and titled as follows:

**Article 8. Conflict of Interest Code**

**Section 375.** General Provisions  
Appendix

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

**HISTORY:**

1. New article 8 (sections 375-383 and Exhibits A and B) filed 10-12-78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 8-2-78 (Register 78, No. 41).
2. Repealer of article 8 (sections 375-383 and Exhibits A and B) and new article 8 (section 375 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).
3. Amendment filed 4-6-92; operative 5-6-92. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 2-14-92 (Register 92, No. 14).

**Article 9. Enforcement and Discipline**

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**§384. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" [revised September 23, 1999] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

**HISTORY:**

1. New article 9 (section 384) and section filed 7-15-99; operative 7-15-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 29).
2. Change without regulatory effect amending the document entitled "Disciplinary Guidelines and Model Disciplinary Orders" (incorporated by reference) and amending section filed 11-4-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 45).

### **§386. Fraud**

Any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee has a second separate conviction for fraud, shall contain an order of revocation, which shall not be stayed.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii). Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code. (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

**HISTORY:**

1. New section filed 12-7-2001; operative 1-6-2002 (Register 2001, No. 49).

### **§390. Issuance of Citations.**

(a) The executive director of the board or his/her designee may issue a citation with an order of abatement against a licensee for any violation of the California Code of Regulations which would be grounds for discipline.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law and/or regulation alleged to have been violated.

(c) The citation shall be served upon the individual personally or by certified mail.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii.

**HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

#### **§390.1. Criteria to Be Considered.**

In the issuance of any citation, the following factors shall be considered:

- (a) Nature and severity of the violation.
- (b) Length of time that has passed since the date of the violation.
- (c) Consequences of the violation, including potential or actual patient harm.
- (d) History of previous violations of the same or similar nature.
- (e) Evidence that the violation was willful.
- (f) Gravity of the violation.
- (g) The extent to which the cited person has remediated any knowledge and/or skill deficiencies which could have injured a patient.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii. Reference: Sections 1000-4(b)

and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

**HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

**§390.2. Violation Codes and Penalty.**

- (a) The issuance of a citation can be for any of the following violations:

Title 16 California Code of Regulations Section 302(a)(7)  
Title 16 California Code of Regulations Section 303  
Title 16 California Code of Regulations Section 308  
Title 16 California Code of Regulations Section 310  
Title 16 California Code of Regulations Section 310.2  
Title 16 California Code of Regulations Section 311  
Title 16 California Code of Regulations Section 312  
Title 16 California Code of Regulations Section 312.1  
Title 16 California Code of Regulations Section 313  
Title 16 California Code of Regulations Section 317(d)  
Title 16 California Code of Regulations Section 317(f)  
Title 16 California Code of Regulations Section 317(p)  
Title 16 California Code of Regulations Section 317(r)  
Title 16 California Code of Regulations Section 317(u)  
Title 16 California Code of Regulations Section 317.1  
Title 16 California Code of Regulations Section 318  
Title 16 California Code of Regulations Section 319  
Title 16 California Code of Regulations Section 355(b)  
Title 16 California Code of Regulations Section 367.5(e)  
Title 16 California Code of Regulations Section 367.7  
Business and Professions Code Section 725  
Business and Professions Code Section 1054  
Business and Professions Code Section 1055  
Business and Professions Code Section 17500  
Health and Safety Code Section 123110

- (b) In his/her discretion, the executive director or designee may issue an order of abatement for the first violation of any provision set forth in subsection (a).

- (c) If a licensee has previously been issued two citations for violation of any of the code sections in subsection (a), the third violation will result in filing an accusation.

**NOTE:** Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

**HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

### **§390.3. Citations for Unlicensed Practice.**

The executive director or his/her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

#### **HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

### **§390.4. Contested Citations.**

(a) The citation shall inform the licensee that if he/she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request for an informal conference with the executive director.

(c) The executive director or his/her designee shall, within 30 calendar days from receipt of the written request, hold an informal conference with the person cited and/or his/her legal counsel or authorized representative.

(d) The executive director or his/her designee may affirm, modify or dismiss the citation, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his/her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued.

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited person may, in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

#### **HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

#### **§390.5. Compliance with Citation/Order of Abatement.**

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, the person cited may request an extension of time from the executive director or his/her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement is unprofessional conduct and may result in disciplinary action being taken by the board.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

**HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

#### **§390.6. Notification to Other Boards and Agencies.**

The issuance and disposition of a citation shall be reported to other chiropractic boards and other regulatory agencies.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

**HISTORY:**

1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).



**BUSINESS AND PROFESSIONS CODE  
FRAUDS OF MEDICAL RECORDS  
SECTION 580-585**

**§580.** No person, company, or association shall sell or barter or offer to sell or barter any medical degree, podiatric degree, or osteopathic degree, or chiropractic degree, or any other degree which is required for licensure, certification, or registration under this division, or any degree, certificate, transcript, or any other writing, made or purporting to be made pursuant to any laws regulating the licensing and registration or issuing of a certificate to physicians and surgeons, podiatrists, osteopathic physicians, chiropractors, persons lawfully engaged in any other system or mode of treating the sick or afflicted, or to any other person licensed, certified, or registered under this division.

**§581.** No person, company, or association shall purchase or procure by barter or by any unlawful means or method, or have in possession any diploma, certificate, transcript, or any other writing with intent that it shall be used as evidence of the holder's qualifications to practice as a physician and surgeon, osteopathic physician, podiatrist, any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000), or to practice as any other licensee under this division or in any fraud of the law regulating this practice or, shall with fraudulent intent, alter in a material regard, any such diploma, certificate, transcript, or any other writing.

**§582.** No person, company, or association shall use or attempt to use any diploma, certificate, transcript, or any other writing which has been purchased, fraudulently issued, illegally obtained, counterfeited, or materially altered, either as a certificate or as to character or color of certificate, to practice as a physician and surgeon, podiatrist, osteopathic physician, or a chiropractor, or to practice any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000) or to practice as any other licensee under this division.

**§583.** No person shall in any document or writing required of an applicant for examination, license, certificate, or registration under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, willfully make a false statement in a material regard.

**§584.** No person shall violate the security of any examination, as defined in subdivision (a) of Section 123, or impersonate, attempt to impersonate, or solicit the impersonation of, another in any examination for a license, certificate, or registration to practice as provided in this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or under any other law providing for the regulation of any other system or method of treating the sick or afflicted in this state.

**§585.** Any person, company, or association violating the provisions of this article is guilty of a felony and upon conviction thereof shall be punishable by a fine of not less than two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by

imprisonment in the state prison. The enforcement remedies provided under this article are not exclusive and shall not preclude the use of any other criminal, civil, or administrative remedy.

**BUSINESS AND PROFESSIONS CODE  
UNEARNED REBATES, REFUNDS AND DISCOUNTS  
SECTION 650-657**

**§650.** Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

"Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Health Services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars (\$50,000).

**§650.01.** (a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient.

A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. The Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars (\$5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars (\$15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

**§650.02.** The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

(4) Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company's most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000).

(5) A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party's referral of any person or the volume of services provided by either party.

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the

recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (l) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(l) This section shall become operative on January 1, 1995.

**§650.1.** (a) Any amount payable to any hospital, as defined in Section 4028, or any person or corporation prohibited from pharmacy permit ownership by subdivision (a) of Section 4111 under any rental, lease or service arrangement with respect to the furnishing or supply of pharmaceutical services and products, which is determined as a percentage, fraction, or portion of (1) the charges to patients or of (2) any measure of hospital or pharmacy revenue or cost, for pharmaceuticals and pharmaceutical services is prohibited.

(b) Any lease or rental arrangement existing on the effective date of this section shall be in full compliance with subdivision (a) by January 1, 1986.

(c) Any lease or rental agreement entered into prior to January 1, 1980, that extends beyond the effective date of this section shall be construed to be in compliance with this section until its expiration or the expiration of any option which is contained in any such lease or rental agreement provided that the lease or rental agreement contains provisions which limit pharmacy charges to the amounts not in excess of the prevailing charges in similar hospitals in the general geographic area.

(d) The California State Board of Pharmacy, the Medical Board of California, and the State Department of Health Services shall enforce this section and may require information from any person as is necessary for the enforcement of this section. It shall be the duty of the licensees of the respective regulatory agencies to produce the requisite evidence to show compliance with this section. Violations of this section shall be deemed to be the mutual responsibility of both lessee and lessor, and shall be grounds for disciplinary action or other sanctions against both.

**§650.2.** Notwithstanding Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 or any other person, to participate in or operate a group advertising and referral service for dentists if all of the following conditions are met:

(a) The patient referrals by the service result from patient-initiated responses to service advertising.

(b) The service advertises, if at all, in conformity with Section 651 and subdivisions (i) and (l) of Section 1680.

(c) The service does not employ a solicitor within the meaning of subdivision (j) of Section 1680.



(d) The service does not impose a fee on the member dentists dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.

(e) Participating dentists charge no more than their usual and customary fees to any patient referred.

(f) The service registers with the Board of Dental Examiners of California, providing its name and address.

(g) The service files with the Board of Dental Examiners of California a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.

(h) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more dentists, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(i) When member dentists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating dentists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible for at least five seconds to the television audience. This subdivision shall be operative on and after July 1, 1994.

The Board of Dental Examiners of California may adopt regulations necessary to enforce and administer this section.

The Board of Dental Examiners may suspend or revoke the registration of any service that fails to comply with the requirements of subdivision (i). No service may reregister with the board if it has a registration that is currently under suspension for a violation of subdivision (i), nor may a service reregister with the board if it had a registration revoked by the board for a violation of subdivision (i) less than one year after that revocation.

The Board of Dental Examiners of California may petition the superior court of any county for the issuance of an injunction restraining any conduct which constitutes a violation of this section.

It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for dentists without providing its name and address to the Board of Dental Examiners of California.

It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by dentists for the purposes of advertising.

This section shall not be construed in any manner which would authorize a referral service to engage in the practice of dentistry.

**§650.3.** (a) Notwithstanding the provisions of Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to the Chiropractic Act, or any other person, to participate in or operate a group advertising and referral service for chiropractors if all of the following conditions are met:

(1) Patient referrals by the service are the result of patient initiated responses to service advertising.

(2) The service advertises, if at all, in conformity with Section 651.

(3) The service does not employ a solicitor.

(4) The service does not impose a fee on the member chiropractors that is dependent upon the number of referrals or amount of professional fees paid by the patient to the chiropractor.

(5) Participating chiropractors charge no more than their usual and customary fees to any patient referred.

(6) The service registers with the State Board of Chiropractic Examiners, providing its name and address.

(7) The service files with the State Board of Chiropractic Examiners a copy of the standard form contract that regulates its relationship with member chiropractors, which contract shall be confidential and not open to public inspection.

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more chiropractors, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(b) The State Board of Chiropractic Examiners may adopt regulations necessary to enforce and administer this section.

(c) The State Board of Chiropractic Examiners or 10 individual licensed chiropractors may petition the superior court of any county for the issuance of an injunction restraining any conduct which constitutes a violation of this section.

(d) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for chiropractors without providing its name and address to the State Board of Chiropractic Examiners.

(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by chiropractors for the purpose of advertising.

(f) This section shall not be construed in any manner which would authorize a service to engage in the practice of chiropractic.

**§650.4.** (a) Notwithstanding Section 650, subdivision (o) of Section 4982, or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 13 (commencing with Section 4980) or any other person, to participate in or operate a group advertising and referral service for marriage, family, and child counselors if all of the following conditions are met:

(1) The patient referrals by the service are the result of patient-initiated responses to service advertising.

(2) The service advertises, if at all, in conformity with Section 651 and subdivision (p) of Section 4982.

(3) The service does not employ a solicitor to solicit prospective patients or clients.

(4) The service does not impose a fee on the member marriage, family, and child counselors that is dependent upon the number of referrals or amount of professional fees paid by the patient to the marriage, family, and child counselor.

(5) Participating marriage, family, and child counselors charge no more than their usual and customary fees to any patient referred.

(6) The service registers with the Board of Behavioral Science Examiners, providing its name, street address, and telephone number.

(7) The service files with the Board of Behavioral Science Examiners a copy of the standard form contract that regulates its relationship with member marriage, family, and child counselors, which contract shall be confidential and not open to public inspection.

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more marriage, family, and child counselors, the service discloses that fact in all public communications, including, but not limited to, communications by means of television, radio, motion picture, newspaper, book, list, or directory of healing arts practitioners.

(9) (A) When member marriage, family, and child counselors pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating marriage, family, and child counselors." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible to the television audience for at least five seconds.

(B) The Board of Behavioral Science Examiners may suspend or revoke the registration of any service that fails to comply with subparagraph (A). No service may reregister with the board if its registration currently is under suspension for a violation of subparagraph (A), nor may a service reregister with the board for a period of one year after it has had a registration revoked by the board for a violation of subparagraph (A).

(b) The Board of Behavioral Science Examiners may adopt regulations necessary to enforce and administer this section.

(c) The Board of Behavioral Science Examiners or 10 individual licensed marriage, family, and child counselors may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

(d) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for marriage, family, and child counselors without providing its name, address, and telephone number to the Board of Behavioral Science Examiners.

(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions of Section 650. The Legislature intends to allow the pooling of resources by marriage, family, and child counselors for the purpose of advertising.

(f) This section shall not be construed in any manner that would authorize a referral service to engage in the practice of marriage, family, and child counseling.

**§651.** (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail,

television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in

anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields. For the purposes of this section, the statement of a practitioner licensed under Chapter 4 (commencing with Section 1600) who limits his or her practice to a specific field or fields shall only include a statement that he or she is certified or is eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board. A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board

certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section

11340) of Part 1 of Division 3 of Title 2 of the Government Code. Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

**§651.3.** (a) Any labor organization, bona fide employee group or bona fide employee association having contracted health care services from a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) may inform its members as to the benefits available and the charges therefor.

(b) Any new or revised written advertising or solicitation, or any form of evidence of coverage adopted by a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) for distribution to members pursuant to subdivision (a) shall comply with the provisions of the Knox-Keene Health Care Service Plan Act of 1975 and the regulations thereunder.

(c) Any labor organization, bona fide employee group or bona fide employee association, contracting for a health care service plan under this section, shall not derive any profit from such plan.

Nothing contained in this section shall be construed as authorizing a provider of medical assistance, including a prepaid health plan, under the Medi-Cal Act or the Waxman-Duffy Prepaid Health Plan Act to advertise in violation of any of the provisions of such acts and regulations developed thereto.

**§652.** Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and each board shall have all the powers granted therein. However, in the case of a licensee of the State Department of Health Services, the proceedings shall be conducted in accordance with Section 110171 of the Health and Safety Code. In addition, any violation constitutes a misdemeanor as to any and all persons offering, delivering, receiving, accepting, or participating in any rebate, refund, commission, preference, patronage dividend, unearned discount, or consideration, whether or not licensed under this division, and is punishable by



imprisonment in the county jail not exceeding six months, by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the imprisonment and fine.

**§652.5.** Except as otherwise provided in this article, any violation of this article constitutes a misdemeanor as to any and all persons, whether or not licensed under this division, and is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the imprisonment and fine.

**§653.** The word "person" as used in this article includes an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

**§654.** No person licensed under Chapter 5 (commencing with Section 2000) of this division may have any membership, proprietary interest or co-ownership in any form in or with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division to whom patients, clients or customers are referred or any profit-sharing arrangements.

**§654.1.** Persons licensed under Chapter 4 (commencing with Section 1600) of this division or licensed under Chapter 5 (commencing with Section 2000) of this division or licensed under any initiative act referred to in this division relating to osteopaths may not refer patients, clients, or customers to any clinical laboratory licensed under Section 1265 in which the licensee has any membership, proprietary interest, or coownership in any form, or has any profit-sharing arrangement, unless the licensee at the time of making such referral discloses in writing such interest to the patient, client, or customer. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed.

This section shall not apply to persons who are members of a medical group which contracts to provide medical care to members of a group practice prepayment plan registered under the Knox-Keene Health Care Service Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

This section shall not apply to any referral to a clinical laboratory which is owned and operated by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or such assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, providing the report indicates clearly the laboratory performing the test.

"Proprietary interest" does not include ownership of a building where space is leased to a clinical laboratory at the prevailing rate under a straight lease arrangement.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

**§654.2.** (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) On and after July 1, 1987, persons licensed under this division or under any initiative act referred to in this division shall disclose in writing to any third-party payer for the patient, when requested by the payer, organizations in which the licensee, or any member of the licensee's immediate family, has a significant beneficial interest and to which patients are referred. The third-party payer shall not request this information from the provider more than once a year.

Nothing in this section shall be construed to serve as the sole basis for the denial or delay of payment of claims by third party payers.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars (\$5,000).

(3) A third-party payer includes any health care service plan, self-insured employee welfare benefit plan, disability insurer, nonprofit hospital service plan, or private group or indemnification insurance program.

A third party payer does not include a prepaid capitated plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 or Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(f) (1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

**§655.** (a) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division.

(b) No person licensed under Chapter 5.5 (commencing with Section 2550) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit sharing arrangement in any form directly or indirectly with any person licensed under Chapter 7 (commencing with Section 3000) of this division.

(c) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products.

Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.

**§655.2.** No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed hearing aid dispenser shall employ any individual licensed pursuant to Chapter 7.5 (commencing with Section 3300) for the purpose of fitting or selling hearing aids.

This section shall not apply to any physician and surgeon or medical corporation which contracts with or is affiliated with a comprehensive group practice health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

**§655.5.** (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division, or any clinical laboratory, or any health facility when billing for a clinical laboratory of the facility, to charge, bill, or otherwise solicit payment from any patient, client, or customer for any clinical laboratory service not actually rendered by the person or clinical laboratory or under his, her or its direct supervision unless the patient, client, or customer is apprised at the first time of the charge, billing, or solicitation of the name, address, and charges of the clinical laboratory performing the service. The first such written charge, bill, or other solicitation of payment shall separately set forth the name, address, and charges of the clinical

laboratory concerned and shall clearly show whether or not the charge is included in the total of the account, bill, or charge. This subdivision shall be satisfied if the required disclosures are made to the third-party payer of the patient, client, or customer. If the patient is responsible for submitting the bill for the charges to the third-party payer, the bill provided to the patient for that purpose shall include the disclosures required by this section. This subdivision shall not apply to a clinical laboratory of a health facility or a health facility when billing for a clinical laboratory of the facility nor to a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges. For purposes of this subdivision, "health facility" has the same meaning as defined in Section 1250 of the Health and Safety Code.

(b) Commencing July 1, 1994, a clinical laboratory shall provide to each of its referring providers, upon request, a schedule of fees for services provided to patients of the referring provider. The schedule shall be provided within two working days after the clinical laboratory receives the request. For the purposes of this subdivision, a "referring provider" means any provider who has referred a patient to the clinical laboratory in the preceding six-month period. Commencing July 1, 1994, a clinical laboratory that provides a list of laboratory services to a referring provider or to a potential referring provider shall include a schedule of fees for the laboratory services listed.

(c) It is also unlawful for any person licensed under this division or under any initiative act referred to in this division to charge additional charges for any clinical laboratory service that is not actually rendered by the licensee to the patient and itemized in the charge, bill, or other solicitation of payment. This section shall not be construed to prohibit any of the following:

(1) Any itemized charge for any service actually rendered to the patient by the licensee.

(2) Any summary charge for services actually rendered to a patient by a health facility, as defined in Section 1250 of the Health and Safety Code, or by a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges.

(d) As used in this section, the term "any person licensed under this division" includes a person licensed under paragraph (1) of subdivision (a) of Section 1265, all wholly owned subsidiaries of the person, a parent company that wholly owns the person, and any subsidiaries wholly owned by the same parent that wholly owns the person. "Wholly owned" means ownership directly or through one or more subsidiaries. This section shall not apply to billings by a person licensed under paragraph (1) of subdivision (a) of Section 1265 when the person licensed under paragraph (1) of subdivision (a) of Section 1265 bills for services performed by any laboratory owned or operated by the person licensed under paragraph (1) of subdivision (a) of Section 1265.

(e) This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if the services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

(f) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by

imprisonment in the state prison, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison.

(g) (1) Notwithstanding subdivision (f), a violation of this section by a physician and surgeon for a first offense shall be subject to the exclusive remedy of reprimand by the Medical Board of California if the transaction that is the subject of the violation involves a charge for a clinical laboratory service that is less than the charge would have been if the clinical laboratory providing the service billed a patient, client, or customer directly for the clinical laboratory service, and if that clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees pursuant to subdivision (b).

(2) Nothing in this subdivision shall be construed to permit a physician and surgeon to charge more than he or she was charged for the laboratory service by the clinical laboratory providing the service unless the additional charge is for service actually rendered by the physician and surgeon to the patient.

**§655.6.** (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from any patient, client, customer, or third-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by that person or under his or her direct supervision.

(b) Clinical laboratories performing cytologic examinations of gynecologic slides shall directly bill either the patient or the responsible third-party payer for the cytology services rendered by those laboratories. Clinical laboratories shall not bill the physician or surgeon who requests the tests.

(c) For the purposes of this section, any person or entity who is responsible to pay for cytologic examination of gynecologic slides services provided to that patient shall be considered a responsible third-party payer.

(d) This section shall not apply to any of the following:

(1) Any person who, or clinical laboratory that, contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if services are to be provided to members of the plan on a prepaid basis.

(2) Any person who, or clinic that, provides cytologic examinations of gynecologic slides services without charge to the patient, or on a sliding scale payment basis where the patient's charge for services is determined by the patient's ability to pay.

(3) Health care programs operated by public entities, including, but not limited to, colleges and universities.

(4) Health care programs operated by private educational institutions to serve the health care needs of their students.

(5) Any person who, or clinic that, contracts with an employer to provide medical services to employees of the employer if the cytologic services relating to the examination of gynecologic slides are provided under the contract.

**§656.** Whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on

application of the State Board of Optometry, the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

**§657.** (a) The Legislature finds and declares all of the following:

(1) Californians spend more than one hundred billion dollars (\$100,000,000,000) annually on health care.

(2) In 1994, an estimated 6.6 million of California's 32 million residents did not have any health insurance and were ineligible for Medi-Cal.

(3) Many of California's uninsured cannot afford basic, preventative health care resulting in these residents relying on emergency rooms for urgent health care, thus driving up health care costs.

(4) Health care should be affordable and accessible to all Californians.

(5) The public interest dictates that uninsured Californians have access to basic, preventative health care at affordable prices.

(b) To encourage the prompt payment of health or medical care claims, health care providers are hereby expressly authorized to grant discounts in health or medical care claims when payment is made promptly within time limits prescribed by the health care providers or institutions rendering the service or treatment.

(c) Notwithstanding any provision in any health care service plan contract or insurance contract to the contrary, health care providers are hereby expressly authorized to grant discounts for health or medical care provided to any patient the health care provider has reasonable cause to believe is not eligible for, or is not entitled to, insurance reimbursement, coverage under the Medi-Cal program, or coverage by a health care service plan for the health or medical care provided. Any discounted fee granted pursuant to this section shall not be deemed to be the health care provider's usual, customary, or reasonable fee for any other purposes, including, but not limited to, any health care service plan contract or insurance contract.

(d) "Health care provider," as used in this section, means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

**BUSINESS AND PROFESSIONS CODE  
UNPROFESSIONAL CONDUCT  
SECTION 725-732**

**§725.** Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist. However, pursuant to Section 2241.5, no physician and surgeon in compliance with the California Intractable Pain Treatment Act shall be subject to disciplinary action for lawfully prescribing or administering controlled substances in the course of treatment of a person for intractable pain.

Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both the fine and imprisonment.

**§726.** The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

**§727.** The provisions of subdivision (2) of Section 1103 of the Evidence Code shall apply in disciplinary proceedings brought against a licensee for acts in violation of Section 726.

**§728.** (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact with a previous psychotherapist during the course of a prior treatment, shall provide to the patient a brochure promulgated by the department that delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapist. Further, the psychotherapist or employer shall discuss with the patient the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) "Psychotherapist" means a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a marriage, family, and child counselor, a psychological assistant, marriage, family, and child counselor registered intern or trainee, or associate clinical social worker.

(2) "Sexual contact" means the touching of an intimate part of another person.

(3) "Intimate part" and "touching" have the same meaning as defined in subdivisions (f) and (d), respectively, of Section 243.4 of the Penal Code.

(4) "The course of a prior treatment" means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.

**§729.** (a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the



scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) "Psychotherapist" has the same meaning as defined in Section 728.

(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

**§730.** Any person licensed under this division or under any initiative act referred to in this division shall not perform any medical evaluation for which the evaluator is required to be certified as a qualified medical evaluator pursuant to Section 139.2 of the Labor Code without having first obtained that certification. No person shall be in violation of this section if the person is certified as a qualified medical evaluator at the time of assignment to a three-member panel under subdivision (h) of Section 139.2 of the Labor Code or, if the injured worker is represented, if the person is certified as a qualified medical evaluator at the time the injured worker is referred for a medical evaluation. A violation of this section constitutes unprofessional conduct and grounds for disciplinary action.

**§730.5.** (a) It is unprofessional conduct and a crime, as provided in Section 4935, for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture involving the application of a needle to the body of a human being by a person licensed under this division who is not licensed pursuant to the Acupuncture Licensure Act established by Chapter 12 (commencing with Section 4925).

(b) It is unprofessional conduct and a crime, as provided in Section 4935, for a person licensed under this division who is not licensed pursuant to the Acupuncture Licensure Act established by Chapter 12 (commencing with Section 4925) to perform acupuncture involving the application of a needle to the body of a human being at the direction or under the supervision of a physician and surgeon, osteopathic physician, dentist, or podiatrist.

**§731.** (a) Any person licensed, certified, registered, or otherwise subject to regulation pursuant to this division who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315, 316, or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work premises of, or work area under the direct professional supervision or control of, that person, shall be guilty of unprofessional conduct. The license, certification, or registration of that person shall be subject to denial, suspension, or revocation by the appropriate regulatory entity under this division.

(b) In addition to any penalty provided under any other provision of law, a violation of subdivision (a) shall subject the person to a civil penalty in an amount not to exceed two thousand five hundred dollars (\$2,500) for the first offense, and not to exceed five thousand dollars (\$5,000) for each subsequent offense, which may be assessed and recovered in a civil action brought by any district attorney. If the action is brought by a district attorney, the penalty recovered shall be paid to the treasurer of the county in which the judgment was entered.

**§732.** (a) A physician and surgeon and a dentist shall refund any amount that a patient has paid for services rendered that has subsequently been paid to the physician and surgeon or dentist by a third-party payor and that constitutes a duplicate payment. The refund shall be made as follows:

(1) If the patient requests a refund, within 30 days following the request from that patient for a refund if the duplicate payment has been received, or within 30 days of receipt of the duplicate payment if the duplicate payment has not been received.

(2) If the patient does not request a refund, within 90 days of the date the physician and surgeon or dentist knows, or should have known, of the receipt of the duplicate payment, the physician and surgeon or dentist shall notify the patient of the duplicate payment, and the duplicate payment shall be refunded within 30 days unless the patient requests that a credit balance be retained.

(b) Violation of this section shall constitute unprofessional conduct. Disciplinary proceedings shall be conducted in accordance with the Medical Practice Act (Chapter 5 (commencing with Section 2000)) or the Dental Practice Act (Chapter 4 (commencing with Section 1600)), as applicable.

**BUSINESS AND PROFESSIONS CODE  
PROFESSIONAL REPORTING  
SECTION 800-809.9**

**§800.** (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the Board of Chiropractic Examiners, the California Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring the licensee or his or her insurer, to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) The contents of any central file which are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information which the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

**§801.** (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800 (except as provided in subdivisions (b), (c), and (d)) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act shall send a complete report to the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, as to any settlement over thirty thousand dollars (\$30,000), or arbitration award of any amount, of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Board of Dental Examiners of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

**§801.1.** (a) Every state or local governmental agency that self insures a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2 or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every state or local governmental agency that self-insures a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 or the Osteopathic Initiative Act shall send a complete report to the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, as to any settlement or arbitration award over thirty thousand dollars (\$30,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

**§802.** (a) Every settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a person who holds a license, certificate or other similar authority from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make

the complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(b) Every settlement over thirty thousand dollars (\$30,000), or arbitration award of any amount, of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, or the Osteopathic Initiative Act, who does not possess professional liability insurance as to the claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the arbitration award on the parties, be reported to the agency that issued the license, certificate or similar authority. A complete report including the name and license number of the physician and surgeon shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the arbitration award on the parties, counsel for the claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(c) Every settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or the unauthorized rendering of professional services, by a marriage, family, and child counselor or clinical social worker licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990), who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage, family, and child counselor or clinical social worker or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty

dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in that compliance is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

**§802.1.** (a) A physician and surgeon shall report any of the following to the Medical Board of California in writing within 30 days:

(1) The bringing of an indictment or information charging a felony against the physician and surgeon.

(2) The conviction of the physician and surgeon, including any verdict of guilty, or plea of guilty or no contest, of any felony.

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars (\$5,000).

**§802.5.** (a) When a coroner receives information that is based on findings that were reached by, or documented and approved by a board-certified or board-eligible pathologist indicating that a death may be the result of a physician's or podiatrist's gross negligence or incompetence, a report shall be filed with the Medical Board of California or the California Board of Podiatric Medicine. The initial report shall include the name of the decedent, date and place of death, attending physicians or podiatrists, and all other relevant information available. The initial report shall be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) The report required by this section shall be confidential. No coroner, physician and surgeon, or medical examiner, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her acting in compliance with this section. No board-certified or board-eligible pathologist, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her providing information under subdivision (a).

**§803.** (a) (1) Except as provided in paragraph (2), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Science Examiners or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(2) For purposes of a physician and surgeon who has committed a crime, or is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) shall send a complete report including the name and license number of the physician and surgeon to the

Medical Board of California as to any judgment of a claim for damages for death or personal injury caused by that licensee's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 calendar days after entry of judgment.

(c) Notwithstanding any other provision of law, the Medical Board of California and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information received pursuant to subdivision (a) regarding felony convictions of, and judgments against, a physician and surgeon or doctor of podiatric medicine. The Division of Medical Quality and the California Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may, by regulation, establish categories of information that need not be disclosed to the public because that information is unreliable or not sufficiently related to the licensee's professional practice.

**§803.1.** (a) Notwithstanding any other provision of law, the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information regarding the status of the license of a licensee and any enforcement actions taken against a licensee by either board or by another state or jurisdiction, including, but not limited to, all of the following:

- (1) Temporary restraining orders issued.
- (2) Interim suspension orders issued.
- (3) Limitations on practice ordered by the board.
- (4) Public letters of reprimand issued.
- (5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other provision of law, the Medical Board of California and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information regarding the status of the license of a licensee, any malpractice judgments, any arbitration awards, or any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for a medical disciplinary cause or reason, and any enforcement actions taken against a licensee by the board or by another state or jurisdiction, including, but not limited to, any of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(c) The Medical Board of California and the California Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may, by regulation, establish categories of information that need not be disclosed to the public because that information is unreliable or not sufficiently related to the licensee's professional practice.

**§803.2.** Every entry of settlement agreement over thirty thousand dollars (\$30,000), or judgment or arbitration award of any amount, of a claim or action for damages for death or personal injury caused by, or alleging, the negligence, error, or omission in practice, or the unauthorized rendering of professional services, by a physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, when that judgment, settlement agreement, or arbitration award is entered against, or paid by, the employer of that licensee and not the licensee himself or herself, shall be reported to the appropriate board by the entity required to report the information in accordance with Sections 801, 801.1, 802, and 803



as an entry of judgment, settlement, or arbitration award against the negligent licensee. This report shall include the name and license number of the physician and surgeon.

"Employer" as used in this section means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this section shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

**§803.3.** Any arbitration under a health care service plan contract for any death or personal injury resulting in an award for an amount in excess of thirty thousand dollars (\$30,000) shall be a judgment for purposes of subdivision (b) of Section 803.

**§803.5.** (a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, or other appropriate allied health board, and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board. Where the licensee is regulated by an allied health board, the record of conviction shall be transmitted to that allied health board and the Medical Board of California.

**§803.6.** (a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the Medical Board of California and the applicable allied health board, or the California Board of Podiatric Medicine, as applicable, where the total length of the transcript is under 800 pages and shall notify the appropriate board of any proceeding where the transcript exceeds that length.

(b) In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the board.

**§804.** (a) Any agency to whom reports are to be sent under Section 801, 801.1, 802, or 803, may develop a prescribed form for the making of the reports, usage of which it may, but need not, by regulation, require in all cases.

(b) A report required to be made by Sections 801, 801.1, or 802 shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter,

whether or not each plaintiff or claimant recovered anything; (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not that person was a named defendant and whether or not any recovery or judgment was had against that person; (3) the name, address, and principal place of business of every insurer providing professional liability insurance as to any person named in (2), and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) any other information the agency to whom the reports are to be sent may, by regulation, require.

(c) Every person named in the report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of the report any records he or she has as to the matter in question and shall make those available upon request to the agency with which the report was filed.

(d) Every professional liability insurer that makes a report under Section 801, or self-insured governmental agency that makes a report pursuant to Section 801.1, and has received a copy of any written patient medical or hospital records prepared by the treating physician or the staff of the treating physician or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the claim prompting the Section 801 or 801.1 report, or a copy of any depositions in the matter that discuss the care, treatment, or medical condition of the person, shall provide with the report copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California to the insurer, except when confidentiality is required by court order. If confidentiality is required by court order and, as a result, the insurer is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer or self-insured governmental agency shall maintain the records and depositions referred to in this subdivision for at least one year from the date of the Section 801 or 801.1 report.

**§804.5.** The Medical Board of California may request a licensee, health care facility, self-insured governmental agency, or professional liability insurer that is required pursuant to Section 804 to comply with a request for medical records of a patient, or a copy of any depositions in a case that discusses the care, treatment, or medical condition of a person, to permit representatives of the board to obtain copies of these records from the custodians of these records subject to reasonable costs to be paid by the Medical Board of California.

**§805.** (a) As used in this section, the following terms have the following definitions:

(1) "Peer review body" includes:

(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(C) Any medical, psychological, marriage and family therapy, social work, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(D) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, podiatrist, clinical psychologist, marriage and family therapist, clinical social worker, or dentist. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date of any of the following that occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer

or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following occur after notice of either an impending investigation or the denial or rejection of the application for a medical disciplinary cause or reason:

(1) Resignation or leave of absence from membership, staff, or employment.

(2) The withdrawal or abandonment of a licentiate's application for staff privileges or membership.

(3) The request for renewal of those privileges or membership is withdrawn or abandoned.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or

administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licensee. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(l) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licensees to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licensees who are the subject of an 805 report, and not automatically exclude or deselect these licensees.

**§805.1.** (a) The Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California shall be entitled to inspect and copy the following documents in the record of any disciplinary proceeding resulting in action that is required to be reported pursuant to Section 805:

- (1) Any statement of charges.
- (2) Any document, medical chart, or exhibits in evidence.
- (3) Any opinion, findings, or conclusions.

(b) The information so disclosed shall be kept confidential and not subject to discovery, in accordance with Section 800, except that it may be reviewed, as provided in subdivision (c) of Section 800, and may be disclosed in any subsequent disciplinary

hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

**§805.2.** (a) It is the intent of the Legislature to provide for a comprehensive study of the peer review process as it is conducted by peer review bodies defined in paragraph (1) of subdivision (a) of Section 805, in order to evaluate the continuing validity of Section 805 and Sections 809 to 809.8, inclusive, and their relevance to the conduct of peer review in California. The Medical Board of California shall contract with the Institute for Medical Quality to conduct this study, which shall include, but not be limited to, the following components:

(1) A comprehensive description of the various steps of and decision makers in the peer review process as it is conducted by peer review bodies throughout the state, including the role of other related committees of acute care health facilities and clinics involved in the peer review process.

(2) A survey of peer review cases to determine the incidence of peer review by peer review bodies, and whether they are complying with the reporting requirement in Section 805.

(3) A description and evaluation of the roles and performance of various state agencies, including the State Department of Health Services and occupational licensing agencies that regulate healing arts professionals, in receiving, reviewing, investigating, and disclosing peer review actions, and in sanctioning peer review bodies for failure to comply with Section 805.

(4) An assessment of the cost of peer review to licentiates and the facilities which employ them.

(5) An assessment of the time consumed by the average peer review proceeding, including the hearing provided pursuant to Section 809.2, and a description of any difficulties encountered by either licentiates or facilities in assembling peer review bodies or panels to participate in peer review decision making.

(6) An assessment of the need to amend Section 805 and Sections 809 to 809.8, inclusive, to ensure that they continue to be relevant to the actual conduct of peer review as described in paragraph (1), and to evaluate whether the current reporting requirement is yielding timely and accurate information to aid licensing boards in their responsibility to regulate and discipline healing arts practitioners when necessary, and to assure that peer review bodies function in the best interest of patient care.

(7) Recommendations of additional mechanisms to stimulate the appropriate reporting of peer review actions under Section 805.

(8) Recommendations regarding the Section 809 hearing process to improve its overall effectiveness and efficiency.

(b) The Institute of Medical Quality shall exercise no authority over the peer review processes of peer review bodies. However, peer review bodies, health care facilities, health care clinics, and health care service plans shall cooperate with the institute and provide data, information, and case files as requested in the timeframes specified by the institute.

(c) The institute shall work in cooperation with and under the general oversight of the Medical Director of the Medical Board of California and shall submit a written report with its findings and recommendations to the board and the Legislature no later than November 1, 2003.

**§805.5.** (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation, or the medical staff of the institution shall request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff, which is received on or after January 1, 1980, the board shall furnish a copy of any report made pursuant to Section 805. However, the board shall not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, or (3) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licensee has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. In the event a request is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

In the event that the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

**§805.6.** (a) The Medical Board of California, the Osteopathic Medical Board, and the Dental Board of California shall establish a system of electronic notification that is either initiated by the board or can be accessed by qualified subscribers, and that is designed to achieve early notification to qualified recipients of the existence of new reports that are filed pursuant to Section 805.

(b) The State Department of Health Services shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

(c) The Department of Managed Health Care shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

**§805.7.** (a) The Medical Board of California shall work with interested parties in the pursuit and establishment of a pilot program, similar to those proposed by the Citizens Advocacy Center, of early detection of potential quality problems and resolutions through informal educational interventions.

(b) The Medical Board of California shall report to the Legislature its evaluation and findings and shall include recommendations regarding the statewide implementation of this pilot program before April 1, 2004.

**§806.** Each agency in the department receiving reports pursuant to the preceding sections shall prepare a statistical report based upon these records for presentation to the Legislature not later than 30 days after the commencement of each regular session of the Legislature, including by the type of peer review body, and, where applicable, type of health care facility, the number of reports received and a summary of administrative and disciplinary action taken with respect to these reports and any recommendations for corrective legislation if the agency considers legislation to be necessary.

**§807.** Each agency in the department shall notify every person licensed, certified or holding similar authority issued by it, and the department shall notify every insurance company doing business in this state and every institution mentioned in Section 805 of the provisions of this article.

**§808.** For purposes of this article, reports affecting respiratory care practitioners required to be filed under Sections 801, 802, and 803 shall be filed with the Respiratory Care Board of California.

**§808.5.** For purposes of this article, reports affecting psychologists required to be filed under Sections 801, 801.1, 802, 803, 803.5, and 803.6 shall be filed with the Board of Psychology of the Department of Consumer Affairs.

**§809.** (a) The Legislature hereby finds and declares the following:

(1) In 1986, Congress enacted the Health Care Quality Improvement Act of 1986 (Chapter 117 (commencing with Section 11101) Title 42, United States Code), to encourage physicians to engage in effective professional peer review, but giving each state the opportunity to "opt-out" of some of the provisions of the federal act.

(2) Because of deficiencies in the federal act and the possible adverse interpretations by the courts of the federal act, it is preferable for California to "opt-out" of the federal act and design its own peer review system.

(3) Peer review, fairly conducted, is essential to preserving the highest standards of medical practice.

(4) Peer review which is not conducted fairly results in harm both to patients and healing arts practitioners by limiting access to care.

(5) Peer review, fairly conducted, will aid the appropriate state licensing boards in their responsibility to regulate and discipline errant healing arts practitioners.

(6) To protect the health and welfare of the people of California, it is the policy of the State of California to exclude, through the peer review mechanism as provided for by California law, those healing arts practitioners who provide substandard care or who engage in professional misconduct, regardless of the effect of that exclusion on competition.



(7) It is the intent of the Legislature that peer review of professional health care services be done efficiently, on an ongoing basis, with an emphasis on early detection of potential quality problems and resolutions through informal educational interventions.

(8) Sections 809 to 809.8, inclusive, shall not affect the respective responsibilities of the organized medical staff or the governing body of an acute care hospital with respect to peer review in the acute care hospital setting. It is the intent of the Legislature that written provisions implementing Sections 809 to 809.8, inclusive, in the acute care hospital setting shall be included in medical staff bylaws which shall be adopted by a vote of the members of the organized medical staff and which shall be subject to governing body approval, which approval shall not be withheld unreasonably.

(9) (A) The Legislature thus finds and declares that the laws of this state pertaining to the peer review of healing arts practitioners shall apply in lieu of Chapter 117 (commencing with Section 11101) of Title 42 of the United States Code, because the laws of this state provide a more careful articulation of the protections for both those undertaking peer review activity and those subject to review, and better integrates public and private systems of peer review. Therefore, California exercises its right to opt out of specified provisions of the Health Care Quality Improvement Act relating to professional review actions, pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 11111 of Chapter 117 of Title 42 of the United States Code. This election shall not affect the availability of any immunity under California law.

(B) The Legislature further declares that it is not the intent or purposes of Sections 809 to 809.8, inclusive, to opt out of any mandatory national data bank established pursuant to Subchapter II (commencing with Section 11131) of Chapter 117 of Title 42 of the United States Code.

(b) For the purpose of this section and Sections 809.1 to 809.8, inclusive, "healing arts practitioner" or "licentiate" means a physician and surgeon, podiatrist, clinical psychologist, or dentist; and "peer review body" means a peer review body as specified in paragraph (1) of subdivision (a) of Section 805, and includes any designee of the peer review body.

§809.05. It is the policy of this state that peer review be performed by licentiates. This policy is subject to the following limitations:

(a) The governing bodies of acute care hospitals have a legitimate function in the peer review process. In all peer review matters, the governing body shall give great weight to the actions of peer review bodies and, in no event, shall act in an arbitrary or capricious manner.

(b) In those instances in which the peer review body's failure to investigate, or initiate disciplinary action, is contrary to the weight of the evidence, the governing body shall have the authority to direct the peer review body to initiate an investigation or a disciplinary action, but only after consultation with the peer review body. No such action shall be taken in an unreasonable manner.

(c) In the event the peer review body fails to take action in response to a direction from the governing body, the governing body shall have the authority to take action against a licentiate. Such action shall only be taken after written notice to the peer review body and shall fully comply with the procedures and rules applicable to peer review proceedings established by Sections 809.1 to 809.6, inclusive.

(d) A governing body and the medical staff shall act exclusively in the interest of maintaining and enhancing quality patient care.

(e) It is not the intent or purpose of this section to prohibit or discourage public members on state licensing boards and medical quality review committees from participating in disciplinary actions as authorized by law.

**§809.1.** (a) A licentiate who is the subject of a final proposed action of a peer review body for which a report is required to be filed under Section 805 shall be entitled to written notice as set forth in subdivisions (b) and (c). For the purposes of this section, the "final proposed action" shall be the final decision or recommendation of the peer review body after informal investigatory activity or prehearing meetings, if any.

(b) The peer review body shall give the licentiate written notice of the final proposed action. This notice shall include all the following information:

(1) That an action against the licentiate has been proposed by the peer review body which, if adopted, shall be taken and reported pursuant to Section 805.

(2) The final proposed action.

(3) That the licentiate has the right to request a hearing on the final proposed action.

(4) The time limit, within which to request such a hearing.

(c) If a hearing is requested on a timely basis, the peer review body shall give the licentiate a written notice stating all of the following:

(1) The reasons for the final proposed action taken or recommended, including the acts or omissions with which the licentiate is charged.

(2) The place, time, and date of the hearing.

**§809.2.** If a licentiate timely requests a hearing concerning a final proposed action for which a report is required to be filed under Section 805, the following shall apply:

(a) The hearing shall be held, as determined by the peer review body, before a trier of fact, which shall be an arbitrator or arbitrators selected by a process mutually acceptable to the licentiate and the peer review body, or before a panel of unbiased individuals who shall gain no direct financial benefit from the outcome, who have not acted as an accuser, investigator, fact finder, or initial decision maker in the same matter, and which shall include, where feasible, an individual practicing the same specialty as the licentiate.

(b) If a hearing officer is selected to preside at a hearing held before a panel, the hearing officer shall gain no direct financial benefit from the outcome, shall not act as a prosecuting officer or advocate, and shall not be entitled to vote.

(c) The licentiate shall have the right to a reasonable opportunity to voir dire the panel members and any hearing officer, and the right to challenge the impartiality of any member or hearing officer. Challenges to the impartiality of any member or hearing officer shall be ruled on by the presiding officer, who shall be the hearing officer if one has been selected.

(d) The licentiate shall have the right to inspect and copy at the licentiate's expense any documentary information relevant to the charges which the peer review body has in its possession or under its control, as soon as practicable after the receipt of the licentiate's request for a hearing. The peer review body shall have the right to inspect and copy at the peer review body's expense any documentary information relevant to the charges which the licentiate has in his or her possession or control as soon as practicable after receipt of the peer review body's request. The failure by either party to provide access to this information at least 30 days before the hearing shall constitute good cause for a continuance. The right to inspect and copy by either party does not

extend to confidential information referring solely to individually identifiable licentiates, other than the licentiate under review. The arbitrator or presiding officer shall consider and rule upon any request for access to information, and may impose any safeguards the protection of the peer review process and justice requires.

(e) When ruling upon requests for access to information and determining the relevancy thereof, the arbitrator or presiding officer shall, among other factors, consider the following:

(1) Whether the information sought may be introduced to support or defend the charges.

(2) The exculpatory or inculpatory nature of the information sought, if any.

(3) The burden imposed on the party in possession of the information sought, if access is granted.

(4) Any previous requests for access to information submitted or resisted by the parties to the same proceeding.

(f) At the request of either side, the parties shall exchange lists of witnesses expected to testify and copies of all documents expected to be introduced at the hearing. Failure to disclose the identity of a witness or produce copies of all documents expected to be produced at least 10 days before the commencement of the hearing shall constitute good cause for a continuance.

(g) Continuances shall be granted upon agreement of the parties or by the arbitrator or presiding officer on a showing of good cause.

(h) A hearing under this section shall be commenced within 60 days after receipt of the request for hearing, and the peer review process shall be completed within a reasonable time, after a licentiate receives notice of a final proposed action or an immediate suspension or restriction of clinical privileges, unless the arbitrator or presiding officer issues a written decision finding that the licentiate failed to comply with subdivisions (d) and (e) in a timely manner, or consented to the delay.

**§809.3.** (a) During a hearing concerning a final proposed action for which reporting is required to be filed under Section 805, both parties shall have all of the following rights:

(1) To be provided with all of the information made available to the trier of fact.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the preparation thereof.

(3) To call, examine, and cross-examine witnesses.

(4) To present and rebut evidence determined by the arbitrator or presiding officer to be relevant.

(5) To submit a written statement at the close of the hearing.

(b) The burden of presenting evidence and proof during the hearing shall be as follows:

(1) The peer review body shall have the initial duty to present evidence which supports the charge or recommended action.

(2) Initial applicants shall bear the burden of persuading the trier of fact by a preponderance of the evidence of their qualifications by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning their current qualifications for staff privileges, membership, or employment. Initial applicants shall not be permitted to introduce information not produced upon request of the peer review body during the application process, unless the initial applicant establishes that

the information could not have been produced previously in the exercise of reasonable diligence.

(3) Except as provided above for initial applicants, the peer review body shall bear the burden of persuading the trier of fact by a preponderance of the evidence that the action or recommendation is reasonable and warranted.

(c) The peer review body shall adopt written provisions governing whether a licentiate shall have the option of being represented by an attorney at the licentiate's expense. No peer review body shall be represented by an attorney if the licentiate is not so represented, except dental professional society peer review bodies may be represented by an attorney provided that the peer review body grants each licentiate the option of being represented by an attorney at the licentiate's expense, even if the licentiate declines to be represented by an attorney.

**§809.4.** (a) Upon the completion of a hearing concerning a final proposed action for which a report is required to be filed under Section 805, the licentiate and the peer review body involved have the right to receive all of the following:

(1) A written decision of the trier of fact, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(2) A written explanation of the procedure for appealing the decision, if any appellate mechanism exists.

(b) If an appellate mechanism is provided, it need not provide for de novo review, but it shall include the following minimum rights for both parties:

(1) The right to appear and respond.

(2) The right to be represented by an attorney or any other representative designated by the party.

(3) The right to receive the written decision of the appellate body.

**§809.5.** (a) Notwithstanding Sections 809 to 809.4, inclusive, a peer review body may immediately suspend or restrict clinical privileges of a licentiate where the failure to take that action may result in an imminent danger to the health of any individual, provided that the licentiate is subsequently provided with the notice and hearing rights set forth in Sections 809.1 to 809.4, inclusive, or, with respect to organizations specified in Section 809.7, with the rights specified in that section.

(b) When no person authorized by the peer review body is available to summarily suspend or restrict clinical privileges under circumstances specified in subdivision (a), the governing body of an acute care hospital, or its designee, may immediately suspend a licentiate's clinical privileges if a failure to summarily suspend those privileges is likely to result in an imminent danger to the health of any individual, provided the governing body of the acute care hospital has, before the suspension, made reasonable attempts to contact the peer review body. A suspension by the governing body of an acute care hospital which has not been ratified by the peer review body within two working days, excluding weekends and holidays, after the suspension shall terminate automatically.

**§809.6.** (a) The parties are bound by any additional notice and hearing provisions contained in any applicable professional society or medical staff bylaws which are not inconsistent with Sections 809.1 to 809.4, inclusive.

(b) The parties are bound by any additional notice and hearing provisions contained in any applicable agreement or contract between the licentiate and peer review body or health care entity which are not inconsistent with Sections 809.1 to 809.4, inclusive.

(c) The provisions of Sections 809.1 to 809.4, inclusive, may not be waived in any instrument specified in subdivision (a) or (b) for a final proposed action for which a report is required to be filed under Section 805.

**§809.7.** Sections 809.1 to 809.4, inclusive, shall not apply to peer review proceedings conducted in state or county hospitals, in hospitals owned by, operated by, or licensed to the Regents of the University of California or any of its subsidiary corporations which serve as a primary teaching facility, or in health facilities which serve as the primary teaching facility for medical schools approved pursuant to Section 2084. In addition, Sections 809.1 to 809.4, inclusive, shall not apply to licentiates engaged in postgraduate medical education under the auspices of a medical school approved pursuant to Section 2084. This section shall not affect the obligation to afford due process of law to licentiates involved in peer review proceedings in these hospitals.

**§809.8.** Nothing in Sections 809 to 809.7, inclusive, shall affect the availability of judicial review under Section 1094.5 of the Code of Civil Procedure nor the provisions relating to discovery and testimony in Section 1157 of the Evidence Code or Sections 1370 and 1370.1 of the Health and Safety Code.

**§809.9.** In any suit brought to challenge an action taken or a restriction imposed which is required to be reported pursuant to Section 805, the court shall, at the conclusion of the action, award to a substantially prevailing party the cost of the suit, including a reasonable attorney's fee, if the other party's conduct in bringing, defending, or litigating the suit was frivolous, unreasonable, without foundation, or in bad faith. For the purposes of this section, a defendant shall not be considered to have substantially prevailed when the plaintiff obtains an award for damages or permanent injunctive or declaratory relief. For the purpose of this section, a plaintiff shall not be considered to have substantially prevailed when the plaintiff does not obtain an award of damages or permanent injunctive or declaratory relief.

**BUSINESS AND PROFESSIONS CODE  
INSURANCE FRAUD  
SECTION 810**

**§810.** (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

(c) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

**BUSINESS AND PROFESSIONS CODE  
MENTAL OR PHYSICAL ILLNESS  
SECTION 820-828**

**§820.** Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

**§821.** The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

**§821.5.** (a) A peer review body, as defined in Section 805, that reviews physicians and surgeons, shall, within 15 days of initiating a formal investigation of a physician and surgeon's ability to practice medicine safely based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care, report to the diversion program of the Medical Board the name of the physician and surgeon under investigation and the general nature of the investigation. A peer review body that has made a report to the diversion program under this section shall also notify the diversion program when it has completed or closed an investigation.

(b) The diversion program administrator, upon receipt of a report pursuant to subdivision (a), shall contact the peer review body that made the report within 60 days in order to determine the status of the peer review body's investigation. The diversion program administrator shall contact the peer review body periodically thereafter to monitor the progress of the investigation. At any time, if the diversion program administrator determines that the progress of the investigation is not adequate to protect the public, the diversion program administrator shall notify the chief of enforcement of the Division of Medical Quality of the Medical Board of California, who shall promptly conduct an investigation of the matter. Concurrently with notifying the chief of enforcement, the diversion program administrator shall notify the reporting peer review body and the chief executive officer or an equivalent officer of the hospital of its decision to refer the case for investigation by the chief of enforcement.

(c) For purposes of this section "formal investigation" means an investigation ordered by the peer review body's medical executive committee or its equivalent, based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care. "Formal investigation" does not include the usual activities of the well-being or assistance committee or the usual quality assessment and improvement activities undertaken by the medical staff of a health facility in compliance with the licensing and certification requirements for health facilities set forth in Title 22 of the California Code of Regulations, or preliminary

deliberations or inquiries of the executive committee to determine whether to order a formal investigation.

For purposes of this section, "usual activities" of the well-being or assistance committee are activities to assist medical staff members who may be impaired by chemical dependency or mental illness to obtain necessary evaluation and rehabilitation services that do not result in referral to the medical executive committee.

(d) Information received by the diversion program pursuant to this section shall be governed by, and shall be deemed confidential to the same extent as program records under, Section 2355. The records shall not be further disclosed by the diversion program, except as provided in subdivision (b).

(e) Upon receipt of notice from a peer review body that an investigation has been closed and that the peer review body has determined that there is no need for further action to protect the public, the diversion program shall purge and destroy all records in its possession pertaining to the investigation unless the diversion program administrator has referred the matter to the chief of enforcement pursuant to subdivision (b).

(f) A peer review body that has made a report under subdivision (a) shall not be deemed to have waived the protections of Section 1157 of the Evidence Code. It is not the intent of the Legislature in enacting this subdivision to affect pending litigation concerning Section 1157 or to create any new confidentiality protection except as specified in subdivision (d). "Pending litigation" shall include *Arnett v. Dal Cielo* (No. S048308), pending before the California Supreme Court.

(g) The report required by this section shall be submitted on a short form developed by the board. The board shall develop the short form, the contents of which shall reflect the requirements of this section, within 30 days of the effective date of this section. The board shall not require the filing of any report until the short form is made available by the board.

(h) This section shall become operative on January 1, 1997, unless the regulations required to be adopted pursuant to Section 821.6 are adopted prior to that date, in which case this section shall become operative on the effective date of the regulations.

**§821.6.** The board shall adopt regulations to implement the monitoring responsibility of the diversion program administrator described in subdivision (b) of Section 821.5, and the short form required to be developed pursuant to subdivision (g), on or before January 1, 1997.

**§822.** If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.



**§823.** Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.

(c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.

(d) Requiring the licentiate to undergo continuing treatment.

(e) Restricting or limiting the extent, scope or type of practice of the licentiate.

**§824.** The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

**§825.** As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.

**§826.** The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.

**§827.** Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate's mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

**§828.** If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licentiate's fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then

the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

## **BUSINESS AND PROFESSIONS CODE**

### **SECTION 1000-1004**

**§1000.** The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

**§1001.** In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

1. The name and address of such person.

2. The names and symbols indicating his title.

3. The school, attendance at which qualified him for examination or admission to practice.

4. The date of the issuance of his certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States which the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter and a copy of the act cited in Section 1000.

The board may require the persons designated in this section to furnish such information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a copy of the directory the cost of publication and distribution thereof, except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

**§1002.** Whenever any person has engaged in or is about to engage in any acts or practices which constitute or will constitute an offense against the Chiropractic Act or its rules or regulations, the superior court of any county, on application of the State Board of Chiropractic Examiners, or on application of 10 or more persons licensed under the Chiropractic Act may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

**§1003.** (a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 10 of the Chiropractic Act.

**§1004.** The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

**BUSINESS AND PROFESSIONS CODE  
CHIROPRACTIC CORPORATIONS  
SECTION 1050-1058**

**§1050.** A chiropractic corporation is a corporation which is registered with the State Board of Chiropractic Examiners with reference to corporations rendering professional services as chiropractors and has a currently effective certificate of registration from the board pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such chiropractic corporation is entitled to practice chiropractic. With respect to a chiropractic corporation, the governmental agency referred to in the Professional Corporation Act is the State Board of Chiropractic Examiners with reference to corporations rendering professional services as chiropractors. As used in this article, the "board" refers to the State Board of Chiropractic Examiners.

**§1051.** An applicant for registration as a chiropractic corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operations. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that each officer as provided in Section 1055, director, shareholder and each employee who will render professional services is a licensed person as defined in the Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall upon payment of the registration fee in such amount as it may determine issue a certificate of registration.

**§1053.** Each chiropractic corporation shall file with the board a report containing such information relating to professional corporations as may be required by board regulations as well as information required by law. The fee for filing such a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

**§1054.** Notwithstanding any other provision of law, the name of a chiropractic corporation and any name or names under which it may be rendering professional services, shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, and shall include the word "chiropractic" and the word "corporation" or wording or abbreviations denoting corporate existence.

**§1055.** Except as provided in Section 13403 of the Corporations Code, relating to the Professional Corporation Act, each director and each officer of a chiropractic corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in the Professional Corporation Act.

**§1056.** The income of a chiropractic corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Professional

Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his shares in the chiropractic corporation.

**§1057.** A chiropractic corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under the Chiropractic Act. The board shall have the same powers of suspension, revocation and discipline against a chiropractic corporation as are now or hereafter authorized by the initiative measure mentioned in Section 1000 or by any other similar statute against individual licensees, provided, however, that proceedings against a chiropractic corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a chiropractic corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that a chiropractic corporation as a condition of obtaining a certificate pursuant to the Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

**§1058.** Moneys received by the board pursuant to this article shall be used to carry out the purposes of this article.

**BUSINESS AND PROFESSIONS CODE  
ILLEGAL ADVERTISING  
SECTION 17500-17500.1**

**§17500.** It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

**§17500.1.** Notwithstanding any other provision of law, no trade or professional association, or state agency, state board, or state commission within the Department of Consumer Affairs shall enact any rule, regulation, or code of professional ethics which shall restrict or prohibit advertising by any commercial or professional person, firm, partnership or corporation which does not violate the provisions of Section 17500 of the Business and Professions Code, or which is not prohibited by other provisions of law.

The provisions of this section shall not apply to any rules or regulations heretofore or hereafter formulated pursuant to Section 6076.

**GOVERNMENT CODE  
CALIFORNIA PUBLIC RECORDS ACT  
SECTION 6250-6270**

**§6250.** In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

**§6251.** This chapter shall be known and may be cited as the California Public Records Act.

**§6252.** As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

**§6252.5.** Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

**§6253.** (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be



available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

**§6253.1.** (a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

**§6253.2.** (a) Notwithstanding any other provision of this chapter to the contrary, information regarding persons paid by the state to provide in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or personal care services pursuant to Section 14132.95 of the Welfare and Institutions Code, shall not be subject to public disclosure pursuant to this chapter, except as provided in subdivision (b).

(b) Copies of names, addresses, and telephone numbers of persons described in subdivision (a) shall be made available, upon request, to an exclusive bargaining agent and to any labor organization seeking representation rights pursuant to subdivision (c) of Section 12301.6 or Section 12302 of the Welfare and Institutions Code or Chapter 10 (commencing with Section 3500) of Division 4 of Title 1. This information shall not be used by the receiving entity for any purpose other than the employee organizing, representation, and assistance activities of the labor organization.

(c) This section shall apply solely to individuals who provide services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) or the Personal Care Services Program pursuant to Section 14132.95 of the Welfare and Institutions Code.

(d) Nothing in this section is intended to alter or shall be interpreted to alter the rights of parties under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4) or any other labor relations law.

**§6253.4.** (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles  
 Department of Consumer Affairs  
 Department of Transportation  
 Department of Real Estate  
 Department of Corrections  
 Department of the Youth Authority  
 Department of Justice  
 Department of Insurance  
 Department of Corporations  
 Department of Managed Health Care  
 Secretary of State  
 State Air Resources Board  
 Department of Water Resources  
 Department of Parks and Recreation  
 San Francisco Bay Conservation and Development Commission  
 State Board of Equalization  
 State Department of Health Services  
 Employment Development Department  
 State Department of Social Services  
 State Department of Mental Health  
 State Department of Developmental Services  
 State Department of Alcohol and Drug Abuse  
 Office of Statewide Health Planning and Development  
 Public Employees' Retirement System  
 Teachers' Retirement Board  
 Department of Industrial Relations  
 Department of General Services  
 Department of Veterans Affairs  
 Public Utilities Commission  
 California Coastal Commission  
 State Water Resources Control Board  
 San Francisco Bay Area Rapid Transit District  
 All regional water quality control boards  
 Los Angeles County Air Pollution Control District  
 Bay Area Air Pollution Control District  
 Golden Gate Bridge, Highway and Transportation District  
 Department of Toxic Substances Control  
 Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

**§6253.5.** Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the

Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

**§6253.6.** (a) Notwithstanding the provisions of Sections 6252 and 6253, information compiled by public officers or public employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets, made in accordance with any federal or state law, or other data that would reveal the identity of the requester, shall not be deemed to be public records and shall not be provided to any person other than public officers or public employees who are responsible for receiving those requests and processing the same.

(b) Nothing contained in subdivision (a) shall be construed as prohibiting any person who is otherwise authorized by law from examining election materials, including, but not

limited to, affidavits of registration, provided that requests for bilingual ballots or ballot pamphlets shall be subject to the restrictions contained in subdivision (a).

**§6253.8.** (a) Every final enforcement order issued by an agency listed in subdivision (b) under any provision of law that is administered by an entity listed in subdivision (b), shall be displayed on the entity's Internet website, if the final enforcement order is a public record that is not exempt from disclosure pursuant to this chapter.

(b) This section applies to the California Environmental Protection Agency and to all of the following entities within the agency:

(1) The State Air Resources Board.

(2) The California Integrated Waste Management Board.

(3) The State Water Resources Control Board, and each California regional water quality control board.

(4) The Department of Pesticide Regulation.

(5) The Department of Toxic Substances Control.

(c) (1) Except as provided in paragraph (2), for purposes of this section, an enforcement order is final when the time for judicial review has expired on or after January 1, 2001, or when all means of judicial review have been exhausted on or after January 1, 2001.

(2) In addition to the requirements of paragraph (1), with regard to a final enforcement order issued by the State Water Resources Control Board or a California regional water quality control board, this section shall apply only to a final enforcement order adopted by that board or a regional board at a public meeting.

(d) An order posted pursuant to this section shall be posted for not less than one year.

(e) The California Environmental Protection Agency shall oversee the implementation of this section.

(f) This section shall become operative April 1, 2001.

**§6253.9.** (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

**§6254.** Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement

agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as

described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and



Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant

is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto,

until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

**§6254.1.** (a) Except as provided in Section 6254.7, nothing in this chapter requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) Nothing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) Nothing in this chapter requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

**§6254.2.** (a) Nothing in this chapter exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an officer, employee, or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Pesticide Regulation, upon his or her initiative, or upon receipt of a request pursuant to this chapter for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment prior to the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons when an application for registration enters the registration evaluation process.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to this chapter of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The director shall not knowingly disclose information submitted to the state by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any officer, employee, or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to the disclosure. To implement this subdivision, the director shall require the following affirmation to be signed by the person who requests such information :

#### AFFIRMATION OF STATUS

This affirmation is required by Section 6254.2 of the Government Code.

I have requested access to information submitted to the Department of Pesticide Regulation (or previously submitted to the Department of Food and Agriculture) by a pesticide applicant or registrant pursuant to the California Food and Agricultural Code. I hereby affirm all of the following statements:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity, including the business or entity of which I am an officer, employee, or agent engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to the officers, employees, or agents of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to a business or entity specified in paragraph (1) or its officers, employees, or agents.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

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Name of Requester

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Name of Requester's Organization

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Signature of Requester

---

Address of Requester

---

Date

---

Request No.

---

Telephone Number of Requester

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Name, Address, and Telephone Number of Requester's Client, if the requester has requested access to the information on behalf of someone other than the requester or the requester's organization listed above.

(i) Notwithstanding any other provision of this section, the director may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(l) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

**§6254.20.** Nothing in this chapter shall be construed to require the disclosure of records that relate to electronically collected personal information, as defined by Section 11015.5, received, collected, or compiled by a state agency.

**§6254.21.** (a) No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.

(b) For purposes of this section "elected or appointed official" includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.
- (6) Members of a city council.
- (7) Members of a board of supervisors.
- (8) Appointees of the Governor.
- (9) Appointees of the Legislature.
- (10) Mayors.
- (11) City attorneys.
- (12) Police chiefs and sheriffs.

**§6254.22.** Nothing in this chapter or any other provision of law shall require the disclosure of records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption. The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any

records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

**§6254.25.** Nothing in this chapter or any other provision of law shall require the disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

**§6254.3.** (a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

**§6254.4.** (a) The home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters is confidential, and shall not be disclosed to any person, except pursuant to Section 2194 of the Elections Code.

(b) For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.

(c) The California driver's license number or California identification card number shown on a voter registration card of a registered voter is confidential and shall not be disclosed to any person.

**§6254.5.** Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions

specified in Sections 6254, 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

(e) Made to any governmental agency which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

(g) Of records relating to any person that is subject to the jurisdiction of the Department of Corporations, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Corporations.

(h) Made by the Commissioner of Financial Institutions under Section 1909, 8009, or 18396 of the Financial Code.

(i) Of records relating to any person that is subject to the jurisdiction of the Department of Managed Health Care, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

**§6254.6.** Whenever a city and county or a joint powers agency, pursuant to a mandatory statute or charter provision to collect private industry wage data for salary setting purposes, or a contract entered to implement that mandate, is provided this data by the federal Bureau of Labor Statistics on the basis that the identity of private industry employers shall remain confidential, the identity of the employers shall not be open to the public or be admitted as evidence in any action or special proceeding.

**§6254.7.** (a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces,



operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rule and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.

**§6254.8.** Every employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the provisions of Sections 6254 and 6255.

**§6254.9.** (a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

**§6254.10.** Nothing in this chapter requires disclosure of records that relate to archeological site information maintained by the Department of Parks and Recreation, the State Historical Resources Commission, or the State Lands Commission.

**§6254.11.** Nothing in this chapter requires the disclosure of records that relate to volatile organic compounds or chemical substances information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code.

**§6254.12.** Any information reported to the North American Securities Administrators Association/National Association of Securities Dealers' Central Registration Depository and compiled as disciplinary records which are made available to the Department of Corporations through a computer system, shall constitute a public record. Notwithstanding any other provision of law, the Department of Corporations may disclose that information and the current license status and the year of issuance of the license of a broker-dealer upon written or oral request pursuant to Section 25247 of the Corporations Code.

**§6254.13.** Notwithstanding Section 6254, upon the request of any Member of the Legislature or upon request of the Governor or his or her designee, test questions or materials that would be used to administer an examination and are provided by the State Department of Education and administered as part of a statewide testing program of pupils enrolled in the public schools shall be disclosed to the requester. These questions or materials may not include an individual examination that has been administered to a pupil and scored. The requester may not take physical possession of the questions or materials, but may view the questions or materials at a location selected by the department. Upon viewing this information, the requester shall keep the materials that he or she has seen confidential.

**§6254.14.** (a) Except as provided in Sections 6254 and 6254.7, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Bureau of State Audits. The Joint Legislative Audit Committee and the Bureau of State Audits shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (w) of Section 6254 for the Legislative Audit Committee shall also apply to the Bureau of State Audits.

**§6254.15.** Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California. Except as provided below, incentives offered by state or local government agencies, if any, shall be disclosed upon communication to the agency or the public of a decision to stay, locate, relocate, or expand, by a company, or upon application by that company to a governmental agency for a general plan amendment, rezone, use permit, building permit, or any other permit, whichever occurs first.

The agency shall delete, prior to disclosure to the public, information that is exempt pursuant to this section from any record describing state or local incentives offered by an agency to a private business to retain, locate, relocate, or expand the business within California.

**§6254.16.** Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

(a) To an agent or authorized family member of the person to whom the information pertains.

(b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.

(c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.

(d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.

(e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.

(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

**§6254.17.** (a) Nothing in this chapter shall be construed to require disclosure of records of the State Board of Control that relate to a request for assistance under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2.

(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2:

- (1) The amount of money paid to a specific provider of services.
- (2) Summary data concerning the types of crimes for which assistance is provided.

**§6255.** (a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

**§6257.5.** This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

**§6258.** Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

**§6259.** (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

**§6260.** The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

**§6261.** Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

**§6262.** The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

**§6263.** A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

**§6264.** The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

**§6265.** Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

**§6267.** All registration and circulation records of any library which is in whole or in part supported by public funds shall remain confidential and shall not be disclosed to any person, local agency, or state agency except as follows:

(a) By a person acting within the scope of his or her duties within the administration of the library.

(b) By a person authorized, in writing, by the individual to whom the records pertain, to inspect the records.

(c) By order of the appropriate superior court. As used in this section, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes any information which identifies the patrons borrowing particular books and other material.

This section shall not apply to statistical reports of registration and circulation nor to records of fines collected by the library.

**§6268.** Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other provision of law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer, which have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years. Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all such public records and other writings available to the public as otherwise provided for in this chapter.

Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section shall not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

Notwithstanding any other provision of law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later. No records or writings may be transferred pursuant to this paragraph unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards. No public records transferred shall be destroyed by that institution without first receiving the written approval of the Secretary of State, as custodian of the State Archives, who may require that the records be placed in the State Archives rather than being destroyed. An institution receiving those records or writings shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records, which the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.

**§6270.** (a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this chapter to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this chapter. Nothing in this section requires a state or local agency to use the State Printer to print public records. Nothing in this section prevents the destruction of records pursuant to law.

(b) This section shall not apply to contracts entered into prior to January 1, 1996, between the County of Santa Clara and a private entity for the provision of public records subject to disclosure under this chapter.

**§26509.** (a) Notwithstanding any other provision of law, including any provision making records confidential, and including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of the person made by the agency, where that person is being investigated by the district attorney regarding possible consumer fraud. (b) Where the district attorney does not take action with respect to the complaint or investigation, the material shall remain confidential. (c) Where the release of the material would jeopardize an investigation or other duties of a consumer-oriented state agency, the agency shall have discretion to delay the release of the information. (d) As used in this section, a consumer-oriented state agency is any state agency that regulates the licensure, certification, or qualification of persons to practice a profession or business within the state, where the regulation is for the protection of consumers who deal with the professionals or businesses. It includes, but is not limited to, all of the following:

- (1) The Dental Board of California.
- (2) The Medical Board of California.
- (3) The State Board of Optometry.
- (4) The California State Board of Pharmacy.
- (5) The Veterinary Medical Board.
- (6) The California Board of Accountancy.
- (7) The California Board of Architectural Examiners.
- (8) The State Board of Barbering and Cosmetology.
- (9) The Board for Professional Engineers and Land Surveyors.
- (10) The Contractors' State License Board.
- (11) The Funeral Directors and Embalmers Program.
- (12) The Structural Pest Control Board.
- (13) The Bureau of Home Furnishings and Thermal Insulation.
- (14) The Board of Registered Nursing.
- (15) The State Board of Fabric Care.
- (16) The State Board of Chiropractic Examiners.
- (17) The Board of Behavioral Science Examiners.
- (18) The State Athletic Commission.
- (19) The Cemetery Program.
- (20) The State Board of Guide Dogs for the Blind.
- (21) The Bureau of Security and Investigative Services.
- (22) The Court Reporters Board of California.

- (23) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
- (24) The California State Board of Landscape Architects.
- (25) The Osteopathic Medical Board of California.
- (26) The Division of Investigation.
- (27) The Bureau of Automotive Repair.
- (28) The State Board of Registration for Geologists and Geophysicists.
- (29) The State Board of Nursing Home Administrators.
- (30) The Department of Alcoholic Beverage Control.
- (31) The Department of Insurance.
- (32) The Public Utilities Commission.
- (33) The State Department of Health Services.
- (34) The New Motor Vehicle Board.



**HEALTH AND SAFETY CODE  
PATIENT ACCESS TO HEALTH RECORDS  
SECTION 123100-123149.5**

**§123100.** The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

**§123105.** As used in this chapter:

- (a) "Health care provider" means any of the following:
  - (1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.
  - (2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.
  - (3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.
  - (4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.
  - (5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.
  - (6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.
  - (7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.
  - (8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.
  - (9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.
  - (10) A marriage, family, and child counselor licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
  - (11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.
- (b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.
- (c) "Patient" means a patient or former patient of a health care provider.
- (d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not

include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative" or "representative" means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

**§123110.** (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program. These programs shall be the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes of this subdivision,

"relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

(2) Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal. For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If the patient's appeal regarding eligibility for a public benefit program specified in subdivision (d) is successful, the hospital or other health care provider may bill the patient, at the rates specified in subdivisions (b) and (c), for the copies of the medical records previously provided free of charge.

(f) If a patient or his or her representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(g) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(h) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(i) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional

or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(j) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (i).

**§123111.** (a) Any adult patient who inspects his or her patient records pursuant to Section 123110 shall have the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (f) of Section 123110 and Section 123120 shall be applicable with respect to any violation of this section by a health care provider.

**§123115.** (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request

of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

**§123120.** Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

**§123125.** (a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

**§123130.** (a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the

health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

- (1) Chief complaint or complaints including pertinent history.
- (2) Findings from consultations and referrals to other health care providers.
- (3) Diagnosis, where determined.
- (4) Treatment plan and regimen including medications prescribed.
- (5) Progress of the treatment.
- (6) Prognosis including significant continuing problems or conditions.
- (7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.
- (8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary.

The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patient's representative. It is the intent of the Legislature that summaries of the records be made available at the lowest possible cost to the patient.

**§123135.** Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

**§123140.** The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

**§123145.** (a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof. In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporation's or partnership's principle officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

**§123148.** (a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test. Consent of the patient to receive his or her laboratory results by Internet posting or in other electronic form shall be obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code.

(b) In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.

(c) When a patient requests to receive his or her laboratory test results by Internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic provision of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute, if enacted, that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record, and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

(f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic manner:

(1) HIV antibody test.

(2) Presence of antigens indicating a hepatitis infection.

(3) Abusing the use of drugs.

(4) Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code.

(h) Any third party to whom laboratory test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay any cost, or be charged any fee, for electing to receive his or her laboratory results in any manner other than by Internet posting or other electronic form.

(j) A patient or his or her physician may revoke any consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

**§123149.** (a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.



(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

**§123149.5.** (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

**CORPORATIONS CODE  
MOSCONE-KNOX PROFESSIONAL CORPORATION ACT  
SECTION 13400-13410**

**§13400.** This part shall be known and may be cited as the "Moscone-Knox Professional Corporation Act."

**§13401.** As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, or the Board of Registered Nursing shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

**§13401.3.** As used in this part, "professional services" also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code).

**§13401.5.** Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or

professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.

- (1) Licensed doctors of podiatric medicine.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage, family, and child counselors.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.

(b) Podiatric medical corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.

(c) Psychological corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage, family, and child counselors.
- (6) Licensed clinical social workers.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.

(d) Speech-language pathology corporation.

- (1) Licensed audiologists.

(e) Audiology corporation.

- (1) Licensed speech-language pathologists.

(f) Nursing corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage, family, and child counselors.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.

(g) Marriage, family, and child counseling corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage, family, and child counselors.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (i) Physician assistants corporation.
- (1) Licensed physicians and surgeons.
- (2) Registered nurses.
- (3) Licensed acupuncturists.
- (j) Optometric corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (k) Chiropractic corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage, family, and child counselors.
- (7) Licensed clinical social workers.
- (8) Licensed acupuncturists.
- (l) Acupuncture corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage, family, and child counselors.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.

**§13402.** (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or

otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.

(b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

**§13403.** The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of this part. A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer.

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years. Notwithstanding the foregoing, the articles or bylaws of a professional medical corporation with more than 200 shareholders may provide that directors who are officers of the corporation or who are responsible for the management of all medical services at one or more medical centers may have terms of office, as directors, of up to six years; however, no more than 50 percent of the members of the board, plus one additional member of the board, may have six-year terms of office.

**§13404.** A corporation may be formed under the General Corporation Law or pursuant to subdivision (b) of Section 13406 for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services. The articles of incorporation of a professional corporation shall contain a specific statement that the corporation is a professional corporation within the meaning of this part. Except as provided in subdivision (b) of Section 13401, no professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which such corporation is or proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code or the Chiropractic Act expressly authorizing such professional services to be rendered by a professional corporation.

**§13404.5.** (a) A foreign professional corporation may qualify as a foreign corporation to transact intrastate business in this state in accordance with Chapter 21 (commencing with Section 2100) of Division 1. A foreign professional corporation shall be subject to the provisions of the General Corporation Law applicable to foreign corporations, except where those provisions are in conflict with or inconsistent with the provisions of this part. The statement and designation filed by the foreign professional corporation pursuant to Section 2105 shall contain a specific statement that the corporation is a foreign professional corporation within the meaning of this part.

(b) No foreign professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which that corporation proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code expressly authorizing those professional services to be rendered by a foreign professional corporation.

(c) If the California board, commission, or other agency that prescribes the rules or regulations governing a particular profession either now or hereafter requires that the shareholders of the professional corporation bear any degree of personal liability for the acts of the corporation, either by personal guarantee or in some other form that the governing agency prescribes, the shareholders of a foreign corporation that has been qualified to do business in this state in the same profession shall, as a condition of doing business in this state, be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, as is prescribed by the governing agency for shareholders of a California professional corporation rendering services in the same profession.

(d) Each application by a foreign professional corporation to qualify to do business in this state shall contain the following statement:

"The shareholders of the undersigned foreign professional corporation shall be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, in California as is from time to time prescribed by the agency governing the profession in this state for shareholders in a California professional corporation rendering services in the same profession. This application accordingly constitutes a submission to the jurisdiction of the courts of California to the same extent, but only to the same extent, as applies to the shareholders of a California professional corporation in the same profession. The foregoing submission to jurisdiction is a condition of qualification to do business in this state."

**§13405.** (a) Subject to the provisions of Section 13404, a professional corporation may lawfully render professional services in this state, but only through employees who are licensed persons. The corporation may employ persons not so licensed, but such persons shall not render any professional services rendered or to be rendered by that corporation in this state. A professional corporation may render professional services outside of this state, but only through employees who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. Nothing in this section is intended to prohibit the rendition of occasional professional services in another jurisdiction as an incident to the licensee's primary practice, so long as it is permitted by the governing agency that regulates the particular profession in the jurisdiction. Nothing in this section is intended to prohibit the rendition of occasional professional services in this state as an incident to a professional employee's primary practice for a foreign professional corporation qualified to render professional services in this state, so long as it is permitted by the governing agency that regulates the particular profession in this state.

(b) Subject to Section 13404.5, a foreign professional corporation qualified to render professional services in this state may lawfully render professional services in this state, but only through employees who are licensed persons, and shall render professional

services outside of this state only through persons who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. The foreign professional corporation may employ persons in this state who are not licensed in this state, but those persons shall not render any professional services rendered or to be rendered by the corporation in this state.

(c) Nothing in this section or in this part is intended to, or shall, augment, diminish or otherwise alter existing provisions of law, statutes or court rules relating to services by a California attorney in another jurisdiction, or services by an out-of-state attorney in California. These existing provisions, including, but not limited to, admission pro hac vice and the taking of depositions in a jurisdiction other than the one in which the deposing attorney is admitted to practice, shall remain in full force and effect.

**§13406.** (a) Subject to the provisions of subdivision (b), shares of capital stock in a professional corporation may be issued only to a licensed person or to a person who is licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and any shares issued in violation of this restriction shall be void. Unless there is a public offering of securities by a professional corporation or by a foreign professional corporation in this state, its financial statements shall be treated by the Commissioner of Corporations as confidential, except to the extent that such statements shall be subject to subpoena in connection with any judicial or administrative proceeding, and may be admissible in evidence therein. No shareholder of a professional corporation or of a foreign professional corporation qualified to render professional services in this state shall enter into a voting trust, proxy, or any other arrangement vesting another person (other than another person who is a shareholder of the same corporation) with the authority to exercise the voting power of any or all of his or her shares, and any such purported voting trust, proxy or other arrangement shall be void.

(b) A professional law corporation may be incorporated as a nonprofit public benefit corporation under the Nonprofit Public Benefit Corporation Law under either of the following circumstances:

(1) The corporation is a qualified legal services project or a qualified support center within the meaning of subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.

(2) The professional law corporation otherwise meets all of the requirements and complies with all of the provisions of the Nonprofit Public Benefit Corporation Law, as well as all of the following requirements:

(A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.

(B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California. (C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.

(D) The corporation shall not enter into contingency fee contracts with clients.

(c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions Code shall be deemed to have satisfied all of the

filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions Code.

**§13407.** Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to such professional corporation, and any transfer in violation of this restriction shall be void.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of such shareholder, as the case may be, then the certificate of registration of such corporation may be suspended or revoked by the governmental agency regulating the profession in which such corporation is engaged. In the event of such suspension or revocation such corporation shall cease forthwith to render professional services in this state.

**§13408.** The following shall be grounds for the suspension or revocation of the certificate of registration of a professional corporation or a foreign professional corporation qualified to render professional services in this state: (a) if all shareholders who are licensed persons of such corporation shall at any one time become disqualified persons, or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall knowingly employ or retain in its employment a disqualified person, or (d) if such corporation shall violate any applicable rule or regulation adopted by the governmental agency regulating the profession in which such corporation is engaged, or (e) if such corporation shall violate any statute applicable to a professional corporation or to a foreign professional corporation, or (f) any ground for such suspension or revocation specified in the Business and Professions Code relating to the profession in which such corporation is engaged.

In the event of such suspension or revocation of its certificate of registration such corporation shall cease forthwith to render professional services in this state.

**§13408.5.** No professional corporation may be formed so as to cause any violation of law, or any applicable rules and regulations, relating to fee splitting, kickbacks, or other similar practices by physicians and surgeons or psychologists, including, but not limited to, Section 650 or subdivision (e) of Section 2960 of the Business and Professions Code. A violation of any such provisions shall be grounds for the suspension or revocation of the certificate of registration of the professional corporation. The



Commissioner of Corporations or the Director of the Department of Managed Health Care may refer any suspected violation of such provisions to the governmental agency regulating the profession in which the corporation is, or proposes to be engaged.

**§13409.** (a) A professional corporation may adopt any name permitted by a law expressly applicable to the profession in which such corporation is engaged or by a rule or regulation of the governmental agency regulating such profession. The provisions of subdivision (b) of Section 201 shall not apply to the name of a professional corporation if such name shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders or of persons who were associated with a predecessor person, partnership or other organization or whose name or names appeared in the name of such predecessor organization, and the Secretary of State shall have no authority by reason of subdivision (b) of Section 201 to refuse to file articles of incorporation which set forth such a name; provided, however, that such name shall not be substantially the same as the name of a domestic corporation, the name of a foreign corporation qualified to render professional services in this state which is authorized to transact business in this state, or a name which is under reservation for another corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the professional corporation complies with the requirements of this section and of the law governing the profession in which such professional corporation is engaged. The statements of fact in such affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

(b) A foreign professional corporation qualified to render professional services in this state may transact intrastate business in this state by any name permitted by a law expressly applicable to the profession in which the corporation is engaged, or by a rule or regulation of the governmental agency regulating the rendering of professional services in this state by the corporation. The provisions of subdivision (b) of Section 201 shall not apply to the name of a foreign professional corporation if the name contains and is restricted to the name or the last name of one or more of the present, prospective, or former shareholders or of persons who were associated with a predecessor person, partnership, or other organization, or whose name or names appeared in the name of the predecessor organization, and the Secretary of State shall have no authority by reason of subdivision (b) of Section 201 to refuse to issue a certificate of qualification to a foreign professional corporation that sets forth that name in its statement and designation; provided, however, that such a name shall not be substantially the same as the name of a domestic corporation, the name of a foreign corporation qualified to render professional services in the state, or a name that is under reservation for another corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the foreign professional corporation qualified to render professional services in this state complies with the requirements of this section and of the law governing the profession in which the foreign professional corporation qualified to render professional services in this state proposes to engage in this state. The statements of fact in such affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

**§13410.** (a) A professional corporation or a foreign professional corporation qualified to render professional services in this state shall be subject to the applicable rules and

regulations adopted by, and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

(b) With respect to any foreign professional corporation qualified to render professional services in this state, each such governmental agency shall adopt rules, regulations, and orders as appropriate to restrict or prohibit any disqualified person from doing any of the following:

- (1) Being a shareholder, director, officer, or employee of the corporation.
- (2) Rendering services in any profession in which he or she is a disqualified person.
- (3) Participating in the management of the corporation.
- (4) Sharing in the income of the corporation.